84-726

NO. _____

Office - Supreme Court, U.S.
FILED
AUG 27 1984
ALEXANDER L. STEVAS
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

ELIZABETH M. BRADY,

PETITIONER,

V. OCTOBER TERM 1984

COMMISSIONER OF

INTERNAL REVENUE,

RESPONDENT.

ON WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

ELIZABETH M. BRADY, PRO SE
219 PRICE AVE., NARBERTH, PA. 19072
TELEPHONE: 215-664-0857.

REX E. LEE, SOLICITOR GENERAL OF
THE UNITED STATES and
GLENN L. ARCHER JR.,
ASSISTANT ATTORNEY GENERAL
U. S. DEPARTMENT OF JUSTICE
WASHINGTON, D. C. 20530
TELEPHONE: 202-633-2000
FOR RESPONDENT.

RECEIVED
AUG 27 1984
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTIONS PRESENTED FOR REVIEW

In the very unusual circumstances of this case, of long term denial of human, civil, property rights, and discrimination against two single women (one now deceased) over 40, there wouldn't be a case were it not for the denials of rights and discrimination, that petitioner be allowed deductions in tax year 1974 income tax for 2nd floor apartment and electric and gas meter for 3rd floor apartment to be, and other expenses, of:

1.a.Depreciation (previously allowed)

b.Maintenance, repairs & Other Expenses (previously allowed)

c. Loss of rental income-2nd floor apartment (not previously allowed).

2. That tax on single "state of life" is an extra tax, in addition to tax on

income, and not authorized by law.

3. That credit be given for returned-to-Treasury of Refund check, and thereafter applied by Internal Revenue Service to false tax bill for "rental income" for unrented apartment, done after Refund check was returned to Treasury.

This was never heard in court in the previous cases. There was also a seizure of bank funds.

EE 1. Whether EE Bonds (United States Government Bonds) may be refused as collateral on appeal of this case from the Tax Court of the United States, Page 133, Tax Court Rules, without an exclusion or delineation.

TABLE OF CONTENTS

	PAGE	ON EE BONDS
Questions Presented for Review	1	2
Petition for Writ of Certiorari	3	40.2
Opinion Below	4	40.3
Jurisdiction	6	40.4
Statutes	9	40.4
Statement of the Case	10	40.4
Reason for Granting the Writ	20	40.5
Argument	28	
Conclusion	40	40.6

APPENDIX

Court of Appeals Decision	A App. 1
Denial of Rehearing	B App. 4
Tax Court Decision	C App. 5
Tax Court Findings of Fact & Opinion	D App. 6
Notice of Appeal	E App. 16
Denial of Motion for Clarification	F App. 17
Mandate Stayed	G App. 19
Supreme Court Extension of Time	H App. 20
Rules of Supreme Court No. 17	J App. 21
Rules of Civil Procedure-52(a)	J App. 21
Federal Rule of Evidence 401	J App. 22

APPENDIX - CONTINUED

	PAGE
28 U.S.C. Section 1254	J App. 22
Constitution-Article I, Sec. 9	J App. 23
Article IV Sec. 2	J App. 23
Fourth, Fifth, Fourteenth	J App. 23a
and Sixteenth Amendments	and 24
Declaration of Independence	J App. 25
26 U.S.C. Sec. 165; 167 & 212	J App. 26
	and 26a
Federal Tax Regulations	
1.165-1	J App. 27
1.212-1	J App. 28
	and 29
26 IRC Page 391 Note 32	J App. 30
Rent Receipts	K App. 31
Ambric Testing Report	L App. 36
Page 1, Form 1040, 1974	M App. 41
Page 2	App. 42
Schedule A	App. 43
Schedule E	App. 44
Maintenance R&O.Expenses	App. 45
Improv.&Replace.Items & Legal	App. 46
Schedule for Depreciation	App. 47

APPENDIX - CONTINUED

	PAGE
Refund Check Uncashed-Card	N App. 48
Statistical Abstract of U.S.	O App. 49
Trust Agreement	P App. 50
Transcript Pages 16 & 20	Q App. 52-55
ON EE BONDS	
Tax Court Decision	EE A App. 1
Notice of Appeal	EE B App. 2
Tax Court Order	EE C App. 3
Motion For Reconsideration to Tax Court	EE D App. 5
Appeal of Orders-Appeals Court July 7-83 & July 13-83 and Exhibits	EE E App. 8
Tax Court Rules	EE E App. 16
Face Page Circular #154	EE E App. 19
Treasury Regulations Savings Bonds	EE E App. 20
Motion for Recission & Stay of Tax Assessment and Exhibits	EE F App. 22
Form 1040-Page One	EE F App. 25

APPENDIX-CONTINUED

ON EE BONDS

	PAGE
Tax Bill During Appeal	EE F App. 26
Requested Order on Tax Bill	EE F App. 27
Circular No. 154	EE F App. 28a
Court of Appeals Denial of Stay	EE G App. 29
Motion for Reconsideration of Motion for Recission & Stay	EE H App. 30
Motion for Clarification	EE J App. 34
Court of Appeals Denial of Motion for Recission	EE J App. 39
Motion Nunc Pro Tunc to Tax Court	EE K App. 41
Court of Appeals Denial of Clarification of Motion for Reconsideration of Motion for Recission on EE Bonds	EE L App. 44

****

TABLE OF AUTHORITIES

CASES	PAGE
Gazzola TCM 508	38
Goelet V. U.S.D.C. N.Y. 1958 161 F. Supp. 305, 266 F2d 881	36

TABLE OF AUTHORITIES-CONTINUED

	PAGE
Guenzel's Estate V. C.I.R. C.A. 8, 1958, 258 F2d 248	38
Long V. CIR, C.A. 8 1960, 277 2d 239	38
May V. C.I.R. C.A. 4, 1964 299 F2d 725	37-38
Mississippi River Fuel Corp. V. Koehler, C.A. Mo. 1959 266 F2d 190. 4 L. Ed 2d 70	38
Motorlease Corp. V. U.S.D.C. Conn. 1963 215 F. Supp.356 383 U.S. 573, 16 L. Ed 2 104	36
Northern Natural Gas V. O'Malley C.A. Neb. 1960 277 F 2d 128	11-37
Oates V. C.I.R. C.A. Ark. 1963 316 F 2d 56	38
Spangler V. C.I.R. C.A. Or. 1963 323 F. 2d 913	11-36
Van Keppel Co. V. C.I.R. C.A. 8, 1961. 295 F. 2d 767	37
Declaration of Independence	7-30-31
Constitution U.S. Arl. 1 Sec. 9	30
Article IV Sec. 2	6-7-32
14th, 16th, 4th & 5th Amds.	30-31-32

TABLE OF AUTHORITIES-CONTINUED

	PAGE
26 U.S.C. I.R.C. 1974	
Sec. 165 (a)	7-34-38
Sec. 167 (a) (2)	7-34
Sec. 212 (a)	7
Federal Tax Regulations 1974 Vol. 1	
Sec. 1.165-1	34
Sec. 1.212-1 (a) (1) (i) (ii) (2) (b) (h) (1) el	34-35
U.S.C.A. 26 Supp. Pamphlet	
Note 2	37
32	7-36
3	36-37
7	37
Statistical Abstract of U.S. 0 App.49	29
Prentiss Hall 14006, 14167, 14131	33
Webster's 2d Edition Pg. 1460	38
Supreme Court Rule 17 1 (a)	6
F.R.C.P. 52 (a)	6
F.R. of E. 401	6
28 U.S.C. 1254 (1)	6

TABLE OF AUTHORITIES-CONTINUED

	PAGE-ON EE BONDS
Rules-Tax Court Pg. 133-4-5	EE E App. 16
Rule 190	40.5 & 40.6
Title 26, Sec. 7485 Bond	EE E App. 19
	40.4
Treasury Regulation #154	EE F App. 28a
Reg. Savings Bonds-Ex. D	EE E App. 20
Still Uncashed Refund Check	EE H 31 & 32
IRS Notice 54 (Main Case)	N 48

****

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1984

NO._____

- - -

ELIZABETH M. BRADY,

PETITIONER,

V.

COMMISSIONER OF INTERNAL REVENUE,

RESPONDENT.

- - -

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

The petitioner, Elizabeth M. Brady, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Third Circuit entered on February 28, 1984.

OPINION BELOW

The Court of Appeals entered its Memorandum decision affirming the judgment of the Tax Court on February 28, 1984. A copy of the Memorandum is attached as Appendix A.

The Court of Appeals denied petitioner's petition for rehearing on March 30, 1984. A copy of the order is attached as Appendix B.

The Tax Court entered a Decision that there is a deficiency in petitioner's income tax in the amount of $2304. for the taxable year 1974 on March 25, 1983. A copy of the Decision is attached as Appendix C.

The Tax Court, under Tax Court Memo 1983-163, issued its Memorandum Findings of Fact and Opinion for the Respondent on March 24, 1983.

A copy of Memorandum Findings of Fact and Opinion is attached as Appendix D.

Petitioner's Notice of Appeal dated June 21, 1983 is attached as Appendix E.

The Court of Appeals entered a decision denying petitioner's "pro se Motion for Clarification of Motion for Reconsideration of Motion for Recission, with copy of this Court's Order, dated September 26, 1983, or, in the alternative, a decision affirming or denying motion filed July 25, 1983, on the EE Bonds as collateral on this case" on December 8, 1983. A copy of the Court's decision is attached as Appendix F.

The Court of Appeals entered a Stay of Mandate on April 9, 1984, pending filing of Petition for Writ of

Certiorari to the Supreme Court. A copy of the Order is attached as Appendix G.

An Extension of Time to file Petition for Writ of Certiorari was granted by the Supreme Court on June 26, 1984, to and including August 27, 1984. A copy of the Supreme Court's Order is attached as Appendix H.

JURISDICTION

On February 28, 1984 the Court of Appeals entered a Memorandum Decision affirming the judgment of the Tax Court. (App. A.)

The jurisdiction of this Court is invoked under Rules 17 1 (a) and (c) of the Supreme Court; the Federal Rules of Civil Procedure 52(a) 28 U.S.C.A.; the Federal Rules of Evidence 401; 28 U.S. C. 1254 (1); the Constitution of the United States, Article IV,

Section 2; The Sixteenth, Fifth and Fourth Amendments of the Constitution of the United States; the Declaration of Independence, Second Paragraph; Internal Revenue Code 1974 Section 165(a), Section 167 (a) (2), and Section 212 (2); and Federal Tax Regulations 1974 Volume I, 1.165-1,1.212-1 (a) (1)1(ii), and 1.212-1 (2) (b), (h) & (1). And U.S. C.A. 26, Supplementary Pamphlet 1955-1964, Internal Revenue Code. Book 1-300. Page 391. Note 32.

It is respectfully submitted that the Tax Court has so far departed from the accepted and usual course of judicial proceedings and the Appeals Court so far has sanctioned such departure by the lower court, Supreme Court Rule 17 1.(a), Federal Rules of Evidence 401, and Federal

Rules of Civil Procedure 52(a), and in so doing, the Tax Court and the Court of Appeals is preventing the application of the search for truth and true facts of the case, and precluded the application of the guarantees of the Constitution and the mandated provisions of the Law of Congress.

This was done by the Tax Court excluding Exhibits at trial, and cutting off further testimony of background of the case by petitioner, resulting in untrue "facts" in the Tax Court's Opinion, which contradict facts accepted by Internal Revenue Service in the prior years cases, and which were accepted and not contested in the prior years cases by the United States Government, those cases having had no testimony

ever allowed to be taken in court, and, in effect, the facts never "heard", in court.

This case is not just a tax case; it is a denial of human, civil and property, and housing rights, and discrimination; were it not for these denials and discriminatory practices there wouldn't be a tax case. The tax case results from these denials and discriminatory practices.

And that the Court of Appeals has decided an important question of federal law which should be settled by this Court.

STATUTES

The Constitutional and Statutory and Rules provisions are set out under "Jurisdiction."

STATEMENT OF THE CASE

This case was never really "heard" in Internal Revenue Appeals. It was dismissed at audit without real review of records because Internal Revenue auditor's boss said to dismiss it. Petitioner did go to first Appeal step; it was summarily dismissed without any consideration or hearing. Petitioner did not elect to go to 2nd Appeal step, but elected to go to 3rd Appeal step, but could not get there because of overburden in overburdened courts where petitioner worked as court reporter.

That is why the Internal Revenue Attorney at first said deductions were unsubstantiated, then reviewed petitioner's records before trial, and admitted the deductions were substantiated, but still disallowed.

Petitioner elected to go to Tax Court, after final notice from Internal Revenue Appeals Division.

Petitioner, a 67 year old 11 year heart patient, now with advanced cancer, appeared pro se, having tried unsuccessfully to obtain a Tax Attorney (now they don't even appeal their own tax cases: they have given up on the system) "they don't want to take the money, etc." Petitioner can't afford to give up.

The basis for the Petitioner's claim of deductions are the Tax Laws cited under Jurisdiction, and in the cases, of "held for the production of income", which are "mandatory and not permissive" Northern Natural Gas Co. v. O'Malley, C. A. Neb. 1960, 277 F2d 128, and Spangler v. C.I.R., C.A. Or. 1963,

323 F 2d 913: "or for conservation of property held for production of income"..."are now deductible when incurred for collection of income or conservation of property held for production of income."

And also the application of the guarantees and protections of the Constitution and Federal Law, to be applied to this very unusual case.

On the "rights " and "discrimination" issue of background, petitioner (and her 76 year old half-sister when living) was denied replacement of whole house main drainage plumbing (house sewer plus) by actions or inactions of one and only plumbing inspector, who approves plans, inspects and approved work, and issues licenses and permits for work to be

done, and who approved a defective main drain house sewer and connections (see Ambric Testing report App. L).

This was done by plumbing inspector telling contractors and others: There is nothing wrong with the plumbing. The contractors would tell me: I'm busy; get someone else. This is all set out in Exhibit proferred to trial court by petitioner, and refused to be accepted by Tax Court. These facts were accepted by Internal Revenue Appeals in prior years cases, and not contested by Federal Government in the court cases. The Exhibit was offered for background.

The "rights" and discrimination" issue of background have gone to other efforts to complete related work in house: it is catching among artisans and workmen; it is how it is

"perceived"; artisans, carpenters, etc. do not easily take the word or effort of an older single woman, especially when there has been a Borough official who had blocked action in his realm, there are others who emulate, or in the case of artisans, just go away.

The other circumstance is that petitioner is a court reporter in a very, very overburdened court system, with work day and night, 365 days of the year both in court long hours and at night, vacation and sick time (if at all able). People are perceived to have a 40 hour work week; for court reporters, judges and law clerks it is 60, 80, or even 100 hours a week. My sleeping time has been 5-1/2 hours or less each night, for many years, typing each night to midnight or later.

Petitioner is conscientious, persevering in adversity, and believes in the pursuit of good objectives, even though continually thwarted, believes in not giving up, and believes that justice and good will ultimately prevail. Petitioner has been told by expert: You should have been an engineer (half-brother was an electrical engineer with Philadelphia Electric). (Worked on Conowingo Dam.)

Another circumstance, is in 1974 petitioner and other court reporters were under two "dominating" persons no longer with court system, who set schedules for both judges and court reporters of time in court. In that year petitioner was on a restricted by Doctor incourt schedule of one week in and one week transcribing. To intimidate other court

reporters (who voted to join a Union over working conditions, etc.) petitioner was made an "example" by first being threatened with being "put on Social Security" when working 60 hours a week even with the restricted court schedule, then being threatened with firing, then forced retirement, then finally being denied court assignments without pay for three months, while being examined medically by the police medicals, the city medicals, and Philadelphia General Hospital Internist, and heart records examined. This one week incourt and one week transcribing was equivalent to what some other court reporters were doing at that time, and petitioner would not give their names (it would be like naming the judges also) to dominating schedulers. At change of top judge

who was leaving for the private sector, and did not want to deal with it, petitioner was given court assignments, provided petitioner would be in court six weeks in a row, and one week transcribing, which was the additional schedule instituted January 1975; previously it had been five weeks in one week out. Petitioner's Judge, a retired Judge, sat every single day in order to get paid. He retired in 1972 and thereafter petitioner was in "pool".

The Internal Revenue system in this instance of 1974 in geared to collect. It seems impossible to please the "system". Petitioner returned-to-Treasury a Refund Check away back: and for so doing was given a false tax bill for "rent" on unrented apartment; then a lien was placed on bank account, then,

the returned-to-Treasury Refund check applied to false tax bill (this has never been heard in court, it was in the former tax cases). Now for 1974: for years petitioner has been putting on Tax Form 1040: Hold any Refund until Court Case is finally decided. For some years the constant overages were held by Internal Revenue: then in 1976 a Refund Check was received of $6522.31. Petitioner wouldn't dare return it to the Treasury because of what happened previously with false tax bill and lien on bank account; there was a seizure. The only thing petitioner could do so as not to be in debt to Treasury was to not cash check; it remains uncashed; therefore, money is still with U.S.Treasury.

There is no monetary deficiency with U. S. Treasury:

There is only a deficiency with Internal Revenue system's way of keeping account. The Internal Revenue, as far as petitioner knows, keeps no record of uncashed Refund Checks.

It seems petitioner cannot please the Tax Court either: petitioner put up over $4000. in EE Bonds as collateral for this case. Although there is no provision for not accepting EE Bonds as collateral in the Tax Court Rules, and they can be cashed at the Federal Reserve Bank, even by the Tax Court, and now all U. S. Bonds are registered in a person's name: there are none now issued without a name that can be sold to anyone, the EE Bonds were rejected as collateral on word of the Clerk and Order of the Judge.

The issue of the EE Bonds is in Petition for Writ of Certiorari previously filed and resubmitted.

The Trial Court, the Tax Court, cutoff testimony of other years, and refused to accept Exhibit of other years which gives background of case, and by this cutoff of testimony and refusal to accept Exhibit, made many errors in its Opinion and Decision.

REASONS FOR GRANTING OF WRIT

A court case is a search for truth. There are many, many misstatements and speculated facts in the Tax Court's Opinion of Finding of Facts and Conclusions of Law put together, and which are to be separate, F.R.C.P. 52(a) and F.R.E. 401, relevant testimony, of background, and Exhibits excluded by Tax Court.

The Tax Court in Opinion said:

After petitioner and her sister moved in, they learned that a prior owner (though not the immediately prior owner) had rented out 2nd floor apartment. Petitioner's sister rented out the 2nd floor apartment prior to 1958, but not thereafter. (App. 9.)

The truth is, and as shown by offered Exhibit at trial, petitioner and sister purchased this property because it was zoned and had been rented by the immediately prior owner's wife when he was in the Navy in Korea, the 2nd floor and 3rd floor together. Trust Agreement between petitioner and sister (sister had arteriosclerosis & high blood pressure and had sold previous home over petitioner's head) and Rent Receipts signed by petitioner, are shown in Exhibit.

The Tax Court in Opinion said:

At some point during the 1960's, petitioner decided it might be a good idea to rent out 2nd floor apartment and convert the 3rd floor to another rental apartment.

This is pure speculation and invention. Petitioner made no such decision in the 1960's. The decision on the 2nd floor was made jointly before purchase. 1974 deductions deal mainly with the 2nd floor, one-half of, never have claimed two-thirds.

The reason for purchase of property was to have income for older half-sister; she had no Social Security, and to live on first floor.

Petitioner's sister was physically and otherwise unable to rent out apartment; petitioner rented 2nd floor and was legally responsible for all bills thereof.

Tax Court's statement on plumbing (App. 9) is so incomplete it does not give the true picture. Exhibit would have, which the Tax Court refused.

Tax Court's statement (App. 10) on the architect's for newstairways and entrances is incomplete and does not give a true picture. It is incomplete because petitioner's background testimony was cutoff by the Tax Court at trial, wanting only 1974 facts. "I don't want to hear it."

The Tax Court, although noting the claimed deduction of Electric & gas meters for 2nd and 3rd floors, ignored them in its determination of the case. They are a clear intent to rent the 2nd and 3rd floor.

The Tax Court also ignored the minimum nature of the electric and gas meters charges when it speculated that: (App.13)

For all we know, petitioner continued to live in the entire house during 1974.

Petitioner nor her sister ever lived in the entire house, but were and am always in the first floor apartment, which is six rooms & bath.

The Tax Court said: (App. 13)

Petitioner has failed to meet even the first hurdle. The record is simply devoid of any evidence that petitioner abandoned the use of the 2nd and 3rd floors of her house as a personal residence at any time before or after 1974.

The record may or may not be devoid; if it is, it is because the Tax Court refused to accept the Exhibit offered.

Many a court in a pro se case would have asked the question of use of the upper floors. The upper floors were never used as a personal residence.

It is hardly unlikely a heart patient would have used a 2nd floor with six rooms and bath on 1st floor.

The minimum electric bill for

for 2nd and 3rd floors shows lack of use and residency, on those floors.

The Tax Court's Opinion, consequently, is contrary to the Internal Revenue findings in the previous cases, and uncontested by the U. S. Attorneys in the previous court cases.

The electric bill for the entire year of 1974 for the 2nd floor was $22.34, a very bare minimum. Usage as a residence of the 2nd floor would have shown up on the electric bill.

The Tax Court said: (App. 13)

(For example, there was no testimony that the 2nd and 3rd floors were blocked off from the first floor at that time.)

There was no testimony because the Court refused to hear further testimony except 1974, The entrance to the 2nd and 3rd floors were always separate,

and were blocked off from the entrance to the first floor since before moving in in February 1957, after purchase in December of 1956. In addition, first floor has an additional side entrance, which was used as the separate first floor entrance.

Events that happened in other years affected the year in question, 1974, and these events ought not to have been excluded by the Tax Court at trial refusing to hear such testimony and refusing to accept Exhibits, which would have thrownlight on the events of 1974, and saved the Tax Court from error.

The offered Exhibit to give background, contained records showing Trust Agreement between half-sister and petitioner on house; rent receipts signed by petitioner; Ambric Testing report on sewer drainage pipes, many court citations,

photos of main drainage in cellar and 2nd floor apartment, and of rear fire escape to 2nd and 3rd floor, and tax and electric bills, etc. The Tax Court refused to accept the Exhibit.

Had the Tax Court allowed petitioner to continue background testimony, the Tax Court would have heard that the six steps that could not be had because of contractors just "going away" on the right side of the house between the 2nd & 3rd floors, the petitioner obtained an engineer to do drawings for a stair tower and vestibule on the left front of house for each of 2nd and 3 rd floor apartments (left side facing the street) and there is now an all brick & concrete block and yellow pine stairway, completely

separate from 1st floor apartment entrances, which now has two entrances, the side entrance which we always used, and the front entrance which used to be for the 2nd and 3rd floor, which was blocked off from 1st floor until the stairtower was built.

Petitioner wishes to complete, before demise, even though "blocked" from completion by others and circumstances. And petitioner believes God will allow petitioner to recover sufficiently to complete it. Man ought not to stand in the way of completion.

ARGUMENT FOR LAW OF THE CASE

Rules of the Supreme Court 17 1. (a) provide: (App.21)

When a federal court of appeals..has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of this Court's power of supervision.

Petitioner believes that is what has happened in this case, that the Tax Court, sanctioned by the Appeals Court, has so far departed from the accepted and usual course of judicial proceedings, as delineated in this Petition, and the proceedings below.

Petitioner believes that the question of a difference in Tax Rates for single and married persons, and only the Tax Rates, is unconstitutional. If the Congress did this to confer a benefit, it is done in the wrong place; it ought to be done in deductions, exemptions or allowances, where it is available to both single and married persons, not in the Tax Rate. See Statistical Abstract of the United States which gives the percent for several years & 1974. (App. 49.)

Petitioner submits that Article I, Section 9, fourth paragraph applies to the "state of life" tax rates, and that the equality statutes of the Federal constitution and Federal law and of the several States, apply. And that persons, as particular kind of persons, may not be taxed differently, or at different tax rates, any more than there would be a tax rate for tall or short persons. And that a different tax rate is not authorized by the Sixteenth Amendment. It discriminates.

Petitioner submits that if the citizens of the several States have privileges and immunities and equality, these privileges and immunities apply to all the States citizens and citizens of the United States.

Petitioner that the Declaration of Independence in its 2nd paragraph says:

We hold these Truths to be self-evident, that all Men are createdequal...

Petitioner submits that the capital "M" in Man means mankind; single persons are part of mankind, and are to be treated equally, and not different tax rates.

Petitioner believes the Fourteenth Amendment also applies, under the privileges or immunities of citizens of the United States, and the deprivation of property without due process of law, and equal protection, as to the different tax rates.

On the Loss of Rental petitioner submits that the deprivation of sanitary drainage to the house, and to their persons of petitioner and sister, violated the equal protections of the

Declaration of Independence, "all Men are created equal" applies also to women; women are a part of mankind, the equal protections of the Fourth, Fifth and Fourteenth Amendments and the privileges and immunities of these Amendments against seizures of property, the denial of sanitary drainage for so long represented a "seizure" of some sort, and the guarantees of Article IV, Section 2 of the Constitution of the United States, and of the several States. Petitioner was brought up to "feel" equal, even though 105 pounds and very, very thin.

The Amendments appear at App. 23, 24 and 25.

The loss deduction could be allocated on the State of Pennsylvania federal monies, inasmuch the State of Pennsylvania does not yet have a

Plumbing Code wherein a Plumbing Inspector would be regulated and supervised by a State body, in a technical matter. This could be applied just as there will now be deprivation of federal monies, if a state does not comply with federal standards on the drinking age.

Prentiss Hall Pilot Chart 14006 says:

"A casualty is an event due to some sudden, unexpected, or unusual cause such as fire, storm, shipwreck or other casualty."

No. 14167:"(a) What is a casualty? As noted above, business and investment losses may be deductible even though they are not technically casualty losses." Reg. 1.165-7. 14361.

No. 141361: "If the loss was incurred in trade or business or in a transaction entered into for profit, the uncompensated part is deductible even though it is not technically a casualty loss."

Reliance is placed on the

law itself: Section 165. Losses.

(a) General rule. There shall be allowed as a deduction <u>any</u> loss sustained during the taxable year and not compensated for by insurance or otherwise."

Subrogation is proffered. Potential income would be from the 3rd floor. Two-thirds was not claimed; one-half of expenses were claimed.

Petitioner submits Section 167 of the I.R.C. applies on "property held for the production of income," as well as Section 212 (1) (2) (3), "property held for the production of income, and property held for the conservation or maintenance of property held for the production of income." (App. 26 Appendix J.)

Petitioner submits Federal Tax Regulations 1.165-1 and 1.212-1, (a) (1), (i) "for the production or collection of income, which, if and

when realized, will be required to be included in income for Federal income tax purposes, or (ii) for the management, conservation, or maintenance of property held for the production of income..." "(b) the term 'income' for the purpose of Section 212 includes not merely income of the taxable year, but also income which the taxpayer has realized in a prior taxable year or may realize in subsequent taxable years.." "Similarly, ordinary and necessary expenses paid or incurred in the management, conservation, or maintenance of a building devoted to rental purposes are deductible notwithstanding that there is actually no income therefrom in the taxable year..." Also Sections (h) and (1), (el.)

In support of petitioner's

Petition, also respectfully submitted:

In: SupplementaryPamphlet 1955-1964
U.S.C.A. Title 26. I.R.C.
Book 1-300, Page 391.
Note 32. Production or collection of income - Generally.
"Under Section 23 (a) (2) (IRC 1939)* permitting deductions from gross income for expenses incurred in collection of income or for conservation of property held for production of income, ordinary and necessary expenses, previously deductible only when incurred in carrying on trade or business, are now deductible when incurred for collection of income or conservation of property held for production of income. Id." Spangler V. C.I.R., C.A. Or. 1963 323 F. 2d 913.) *(23 (a) (2) IRC 1939 is now Section 212.)"

Book 161-300. Page 486.
Note 3. Section 167.

"Depreciation is an ordinary deduction, not merely a factor entering into computation of gain or loss, for federal income tax purposes. Motorlease Corp. V. U.S.D.C. Conn. 1963, 215 F. Supp. 356. 383 U.S. 573, 16 L. Ed 2d 104.

Book 161-300. Page 486.
Note 3. Section 167.
"The purpose of this section authorizing deduction for depreciation was to allow taxpayer a means of recouping his investment. Goelet v. U.S.D.C. N.Y. 1958, 161 F. Supp. 305, 266 F. 2d 881."

Book 161-300. Page 486.
Note 3. Section 167.
"Purpose of depreciation allowance as specified in this section is to afford owner of wasting asset used in trade or business or held for production of income means of recouping his investment in that property, and under the straight line method, amount which may be deducted is amount which should be set aside each year in order that, at the end of useful life of property, total sums thus set aside plus salvage equal original cost. G. W. Van Keppel Co. V. C.I.R., C.A. 8, 1961. 295 F. 2d 767."

Book 161-300. Page 489.
Note 7. Section 167.
"Section 23 (1) (IRC 1939 (now this section)), authorizing from gross income for exhaustion, wear and tear of property used in trade or business or property held for protection of income, is mandatory and not permissive, and required Commissioner to grant deduction to taxpayer who brings his claim within provisions of said section. Northern Natural Gas Co. V. O'Malley, C.A. Neb. 1960, 277 F. 2d 128."

Book 1-300. Page 321.
Note 2. Purpose. Section 167.
"In regard to nonbusiness properties unrented or withdrawn from rent, provisions of this section and Section 212 of this title disclosed an intent to allow deduction of expenses and depreciation only on buildings and similar holdings.

May V. C.I.R., C.A. 4, 1964, 299 F. 2d 725."

Section 165. Losses.
(a) "General Rule. There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise."

From: Webster's Unabridged Dictionary. Second Edition. Page 1460. Definition of "loss". "Loss: 2. Act or fact of losing or suffering deprivation. 4. Act or fact of failing to gain, obtain."

"Tax deductions depend upon legislative grace and do not turn upon general equitable considerations." Guenzel"s Estate V. C.I.R., C.A. 8, 1958, 258 F. 2d 248. See also Oates V. C.I.R., C.A. Ark. 1963, 316 F 2d 56; Long V. C.I.R., C.A. 8 1960, 277 2d 239; Mississippi River Fuel Corp. V. Koehler, C.A. Mo. 1959, 266 F. 2d 190, 4 L. Ed. 2d 70."

Also 8TCM 508, Gazzola, on the Depreciation, Maintenance and Other Expenses.

It is respectfully submitted all these Laws of Congress are mandatory, and the Court cases are cited in support of these deductions, and it is prayed that they be allowed,

with credit to the returned-to-the-Treasury Refund Check applied to the false tax bill.

On the loss of rental, which can be considered a casualty loss, it is akin to fire that is caused, or flood that is caused by carelessness or design, and just because the most obnoxious part of it was the odorous gases from the leaky sewer pipes, the odorous gases are as real as water from the pipes, or fire, both of which can be seen. The casualty was not only the very bad job, approved by the one and only plumbing inspector, but also the resultant loss of rental from the plumbing inspector's inaction or actions, and contractors reactions to his inaction or actions.

It is respectfully

submitted, the different Tax Rates for single persons and married persons is unconstitutional.

CONCLUSION

For all the foregoing reasons, cited in this Petition, Petitioner, Elizabeth M. Brady, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Third Circuit, and reverse its decision upholding the Tax Court Decision, and grant the deductions and credits, and determine the unconstitutionality of the different Tax Rates for single persons and married persons.

Respectfully submitted

Elizabeth M. Brady

ELIZABETH M. BRADY, Pro Se
219 PRICE AVENUE
NARBERTH, PA. 19072.
Petitioner.

DATED AUGUST 25, 1984.

ON EE BONDS AS COLLATERAL IN CASE

The petitioner, Elizabeth M. Brady, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Third Circuit entered on September 26, 1983 as to Collateral for Appeal, and later final decision

(Page 40.1 skipped for consistency.)

of December 8, 1983 denying Petition.

This Petition is directed to the EE Bonds as collateral.

OPINION BELOW

The Court of Appeals for the Third Circuit entered its Memorandum decision affirming the denial of Petitioner's Motions for Clarification, Motion for Reconsideration of Motion for Recission & Stay of Tax Assessment, and Motion for Recission & Stay of Tax Assessment, September 7, 1983, September 26, 1983; (also Motion Nunc Pro Tunc before the Tax Court again), and final decision of December 8, 1983.

The Court reconsidered petitioner's Motion for Clarification and denied same December 8, 1983. A copy of each Order is attached in the Appendix on the EE Bonds.

JURISDICTION

On December 8, 1983 the Court of Appeals entered judgment affirming the denial of Petitioner's Motion for Clarification. Article III Constitution. (Thejudicial power of the United States.) 28 U.S.C. 1254 (1).

STATUTE

The Statute under which this Appeal is taken is Title 26, Section 7485, Bond to Stay Assessment and Collection; Rules of the United States Tax Court, Page 133, Form 10, Appeal Bond, Approved Collateral.

STATEMENT OFTHE CASE

The Court of Appeals for the Third Circuit entered its Memorandum decision on December 8, 1983 affirming the Tax Court's rejection of the EE Bonds as collateral for

this appeal.

REASON FOR GRANTING THE WRIT

1. The Rules of the Tax Court, as written now, do not exclude any specific Government Bond.

The Rules ought to be able to be relied upon as written. Exclusions of a particular type United States Bond ought to have been included in the Rules of the Tax Court, so petitioners would be advised prior to purchase.

2. Cases are to be without undue burden financially.

3. Relying on the Rules, as written, Petitioner made a special purchase of these EE Bonds at the bank, believing them acceptable.

4. There is no problem in cashing them since the Government has issued them, and no need to transfer ownership; they need only be turned in

at any Federal Reserve Bank.

5. Since all United States Government Bonds must now carry a Name and Address, and in order to do so, it takes approximately sixty (60) days from date of receipt of the actual Bonds, the procedures or mechanics of obtaining a United States Government Bond, would take nearly all or a large part of the time allowed for appeal, and would thus defeat the time allowance for appeal.

CONCLUSION

For the foregoing reasons, Petitioner, Elizabeth M. Brady, respectfully requests that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Third Circuit. Petitioner is a Heart patient &

Respectfully submitted,

Elizabeth M Brady

ELIZABETH M. BRADY
PRO SE
219 PRICE AVENUE
NARBERTH, PA. 19072

Petitioner.

DATED: August 7th 1984.

This is to certify that three copies of the foregoing paper were served on the Solicitor General of the United States, Department of Justice, Washington D. C. 20530 and three copies were served on Glenn L. Archer Jr., Assistant Attorney General, Tax Division, U. S. Department of Justice, Washington, D. C. 20530 ~~by mailing the same in a postage-paid~~ wrapper addressed to them at the above address, by hand delivery in Media Box.

This is to certify that the original and forty copies of the foregoing paper were filed with the Clerk's Office of the Supreme Court of the United States, Washington, D.C. 20543.

Elizabeth M. Brady

ELIZABETH M. BRADY
PRO SE
219 PRICE AVENUE
NARBERTH, PA. 19072

DATED: AUGUST 27, 1984.

A P P E N D I X

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 83-3314

ELIZABETH M. BRADY

Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

ON APPEAL FROM THE DECISION OF THE

UNITED STATES TAX COURT

(Tax Court No. 4465-78)

Tax Court Judge: Hon. Arthur L. Nims

Submitted Under Third Circuit Rule 12(6)

February 24, 1984

Before: GIBBONS, GARTH and MARIS,

Circuit Judges

(Opinion Filed: Feb. 28, 1984)

MEMORANDUM OPINION OF THE COURT

NOT FOR PUBLICATION

Signed: John J. Gibbons.

GIBBONS, Circuit Judge:

Elizabeth Brady appeals from an order of the Tax Court determining a deficiency in her income tax for the taxable year 1974 in the amount of $2,304.00. She contends that the Tax Court erred in disallowing a claimed loss of $1,080. in rental income from not being able to rent a second floor apartment in her residence during 1974. That issue is foreclosed. Brady v. Commissioner, 33. T.C.M. (C.C.H.) 736 (1974), aff'd mem., 513 F. 2d 625 (3d Cir.) cert. denied, 423 U.S. 912 (1975). She also contends that the Tax Court erred in disallowing depreciation of $848.43 and maintenance of $558.39 on the ground that the property in question was held as a personal residence. The Tax Court's findings of fact are not clearly

erroneous. Finally, Brady contends that the Internal Revenue Code, by treating married and single taxpayers differently, imposes a tax on a state of life, in violation of the Sixteenth Amendment and of Article IV. § 2, cl. 1 of the Constitution. This contention is foreclosed. See, e.g., United States v. Maryland Savings-Share Ins. Corp., 400 U.S. 4, 6 (1970) (per curiam); Kellems v. Commissioner, 58 T.C. 556, 559-560 (1972), aff'd (per curiam), 474 F. 2d 1399 (2d Cir. 1973).

The judgment of the Tax Court will be affirmed.

TO THE CLERK OF THE COURT:

Kindly file the foregoing Memorandum Opinion.

Signed: JOHN J. GIBBONS
Circuit Judge.

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 83-3314

ELIZABETH M. BRADY,

Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

Before: GIBBONS, GARTH and MARIS,

Circuit Judges

Upon the consideration of the petition for rehearing by the appellant before the original panel,

It is O R D E R E D that the petition for rehearing before the original panel is denied.

By the Court,

Signed: JOHN J. GIBBONS
Circuit Judge

DATED: March 30, 1984.

UNITED STATES TAX COURT

Washington, D. C. 20217

ELIZABETH M. BRADY,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Docket No. 4465-78

D E C I S I O N

Pursuant to the determination of the Court, as set forth in its Opinion filed March 24, 1983, it is

ORDERED AND DECIDED: There is a deficiency in petitioner's income tax in the amount of $2,304.00 for the taxable year 1974.

Signed: Arthur L. Nims III

Arthur L. Nims, III

Judge.

Entered: Mar. 25, 1983

T. C. Memo. 1983-163

UNITED STATES TAX COURT

ELIZABETH M. BRADY, Petitioner v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Docket No. 4465-78

Filed March 24, 1983

Elizabeth M. Brady, pro se.

Greely S. Curtis, Jr., for the respondent.

MEMORANDUM FINDINGS OF FACT AND OPINION

NIMS, Judge: Respondent determined a deficiency in petitioner's Federal income tax for the year 1974 of $2,304.

Due to a concession by petitioner, [1] the issues for decision are: 1) whether

---

[1] Petitioner, deducted a claimed Schedule E loss of $4,534.28 twice on her return -- once on Schedule A. and again on Form 1040, line 31 (the line for reporting Schedule E income). At trial petitioner admitted that deducting this amount twice was a "mistake." Accordingly, we consider the issue of respondent's disallowance, on grounds of duplication, of one of the $4,534.28 deductions conceded.

petitioner is entitled to a $1,080. loss deduction for rental income never received. 2) whether petitioner is entitled to an $848.43 depreciation deduction and $558.39 worth of maintenance, repair, utility and insurance expense deductions attributable to a portion of her residence and 3) whether the use of different rates of taxation for single and married individuals imposes an additional "tax on state of life" not authorized in the Sixteenth Amendment to the Constitution and prohibited by the Privileges and Immunities Clause of the Constitution (Article IV, Section).[2]

To facilitate disposition of the issues, our findings of fact and opinion are combined.

---

[2] In addition, petitioner raised the issue of respondent's alleged application of a refund check to an unspecified assessment relating to a prior taxable year. This is a matter over which we have no jurisdiction. See White v. Commissioner, T. C. Memo. 1974-146.

Petitioner Elizabeth M. Brady resided at Narberth, Pennsylvania, at the time she filed the petition.

Issue 1. Rental Loss Deduction

On her Schedule E for 1974, petitioner claimed a $1,080. loss attributable to her not being able to rent a second floor apartment in her personal residence during 1974.

Petitioner calculated that such an apartment could have rented for $90. per month and computed the loss by multiplying $90. times 12 months.

Petitioner contends that the loss is deductible under Section 165.[3]

Respondent contends petitioner may not deduct a loss attributable to unreceived rents.

This precise issue was litigated

[3] Unless otherwise indicated, all section references are to the Internal Revenue Code of 1954 as in effect during the year in issue.

previously, for petitioner's 1967 and 1968 taxable years in Brady v. Commissioner, T. C. Memo. 1974-171, affd. without published opinion 513 F. 2d 625 (3d Cir. 1975) cert. denied 423 U.S. 912 (1975). In that case, we denied petitioner the identical $1,080. loss deductions she claimed for each of her taxable years 1967 and 1968, stating:

> Even if all allegations of fact in the petition are true, Section 165 of the Code does not permit the claimed deductions. Subsection (a) of that section allows a deduction for "any loss sustained during the taxable year and not compensated for by insurance or otherwise." However, that section is addressed to losses actually sustained from closed and completed transactions fixed by identifiable events, not to losses of anticipated income. "Nothing in * * * (Section 165) indicates that Congress intended to allow petitioner to reduce ordinary income actually received and reported by the amount of income * * * (she) failed to realize." Hort v. Commissioner, 313 U.S. 28, 32 (1941).

Since the law has not changed, we deny such claimed deduction again for her 1974 taxable year.

Issue 2. Depreciation, Maintenance and Utility Expenses

Sometime prior to 1961, petitioner and her older half-sister began living at a house at 219 Price Avenue, Narberth, Pennsylvania. After petitioner and her sister moved in, they learned that a prior owner (though not the immediately prior owner) had rented out a second floor apartment in the house. Petitioner's sister rented out the second floor apartment prior to 1958, but not thereafter. In 1961, petitioner's sister died.

At some point during the 1960's, petitioner decided it might be a good idea to rent out the second floor apartment and convert the third floor to another rental apartment. Neither floor was then in a condition to be rented, so petitioner hired a plumber to put in new plumbing. Petitioner was dissatisfied

with the initial work done and in 1971 attempted to have the plumbing work redone. Repairs to the plumbing began in December 1971, and continued through 1973. In 1973, some electrical work was done on petitioner's house. Some of this electrical work was paid for in 1974.

In 1973 petitioner had a heart attack. As a result, in 1974 she did little further to make the second and third floors of her house into rentable apartments. Petitioner did, however, have some carpentry work done in 1974 and 1975. In 1974, petitioner did not offer the second or third floors of her house for rent because they were in no condition to be rented.

In 1977 and 1978, petitioner went to several architects to get drawings for new stairways and entrances to the second and third floors. Petitioner rejected the drawings she obtained, however.

On her 1974 return, petitioner claimed $848.43 depreciation deduction attributable to one-half her claimed basis in the house. Petitioner further claimed deductions of $22.34 for "Electric and Gas Meters 2nd Fl.," $14.31 for "Electric and Gas Meter 3rd Fl.," $61, $303.56 and $157.18 respectively, for one-half of household expenses for fire insurance, oil and miscellaneous maintenance, repair and other expenses.

In the statutory notice, respondent disallowed each of these depreciation and non-depreciation items on the grounds they did not qualify as ordinary and necessary business expenses and were unsubstantiated. Respondent has since conceded the substantiation issue.

Respondent claims that petitioner was not in the trade or business of renting and that she did not hold part of her residence for the production or collection of income

in 1974. Accordingly, he argues, petitioner is entitled to no depreciation under Section 167 and to none of the disallowed non-depreciation deductions either under Section 162 or Section 212.

Petitioner, on the other hand, claims that she held the upper portion of her residence for the production of income in 1974 and hence depreciation is allowable under Section 167(a) (2) and the remaining expenses are deductible under Section 212.[4] Petitioner relies on Section 1.212-1(b), Income Tax Regs. which provides in pertinent part:

> (b) The term "income" for the purpose of Section 212 includes not merely

---

[4] Petitioner makes no argument she was in the trade or business of renting in 1974 and clearly on this record she is not entitled to deduct the non-depreciation items under Section 162. Cf. McGuire v. Commissioner, 77 T.C. 765, 778 (1981); Goodwin v. Commissioner, 75 T.C. 424 (1980), affd. without published opinion 691 F.2d 490 (3rd Cir. 1982).

> income of the taxable year but also income which the taxpayer has realized in a prior taxable year or may realize in subsequent taxable years; * * *. Similarly, ordinary and necessary expenses paid or incurred in the management, conservation, or maintenance of a building devoted to rental purposes are deductible notwithstanding that there is actually no income therefrom in the taxable year, and regardless of the manner in which or the purpose for which the property in question was acquired.

Petitioner makes no argument she held the upper portion of her residence for future appreciation, but does contend she held those floors for future rental purposes.

A necessary precondition for the current deduction of expenses and depreciation attributable to property at one time held as a personal residence is the abandonment of that property as the taxpayer's residence. Robinson v. Commissioner, 2 T.C. 305 (1943). "Proof of abandonment is, however, only the first hurdle petitioner must overcome * * *." Meredith v. Commissioner, 65 T.C. 34, 41 (1975).

The taxpayer must also show an intention to profitably rent the property; Meredith v. Commissioner, supra at 41; in this regard actual rental or offering the property for rent is a highly relevant factor. McGuire v. Commissioner, 77 T.C. 765, 778 (1981); Melone v. Commissioner, 45 T.C. 501 (1966); Horrmann v. Commissioner, 17 T.C. 903 (1951).

In the instant case, petitioner has failed to meet even the first hurdle. The record is simply devoid of any evidence that petitioner abandoned the use of the second and third floors of her house as a personal residence at any time before or after 1974. Over the course of two decades she may have made various alterations to the upper stories of her house in anticipation of future rental, but she did not rent the apartments or

offer them for rent prior to 1978, or possibly thereafter. For all we know, petitioner continued to live in the entire house during 1974. (For example, there was no testimony that the second and third floors were blocked off from the first floor at that time.) Accordingly, we cannot find that the upper portion of petitioner's house was held for the production or collection of income in 1974. Since petitioner has not shown any nonresidential use of the house in 1974, no deductions under Sections 167 and 212 are allowable.

Petitioner alleges that in prior taxable years she claimed similar depreciation and maintenance deductions which respondent did not disallow. Whether or not this is true, it is no ground for allowing these deductions here. McGuire v. Commissioner, Supra at 779-80.

Issue 3. "Tax on State of Life"

Petitioner argues that the Internal Revenue Code imposes an additional "tax on state of life" not authorized by the Sixteenth Amendment. She further argues that treating married and single people differently is a "disparity of equality of persons under the law," and violates Article IV, Section 2, Clause 1, of the Constitution ("The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.")

Petitioner apparently derives her additional "tax on state of life" from a comparison of the single and married tax tables contained in Section 1. Petitioner's Sixteenth Amendment and equal protection arguments were considered and rejected in Kellems v. Commissioner, 58 T.C. 556 (1972) affd. per curiam 474 F.2d 1399 (2nd Cir.

1973). With regard to petitioner's Privileges and Immunities Clause argument, we quote from Easter v. Commissioner, T.C. Memo. 1964-58, affd. per curiam 338 F.2d 968 (4th Cir. 1964):

> (T)his clause is directed against discrimination by a state in favor of its own citizens and against the citizens of other states. Whitfield v. Ohio, 297 U.S. 431. In Slaughter-House Cases, 83 U.S. 36, it was stated with regard to this clause:
>
> > Its sole purpose was to declare to the several States, that whatever those rights, as you grant or establish them to your own citizens, or as you limit or qualify, or impose restrictions on their exercise, the same, neither more nor less, shall be the measure of the rights of citizens of other States within your jurisdiction.
>
> It is clear that this clause is a limitation upon the powers of the states and has no application to Federal tax statutes or the administration thereof.

Consequently, we find no constitutional violation of the Privileges and Immunities Clause, the Fifth Amendment or the Sixteenth Amendment in the disparate Federal tax treatment of married and

single individuals.

Decision will be entered for the respondent.

NOTICE OF APPEAL TO COURT OF APPEALS

UNITED STATES TAX COURT

ELIZABETH M. BRADY, Petitioner

V. Docket No. 4465-78

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

NOTICE OF APPEAL

Notice is hereby given that Elizabeth M. Brady hereby appeals to the United States Court of Appeals for the Third Circuit from the Opinion of this Court of March 24th, 1983 and Decision and Order entered in the above captioned proceeding on March 25th 1983, relating to deficiency in petitioner's income tax in the amount of $2,304.00 for the taxable year 1974.

Signed: Elizabeth M. Brady.
219 Price Avenue,
Narberth, PA. 19072
Petitioner.

DATE: June 21, 1983.

STAMP: Received: Jun. 22, 1983
United States Tax Court.

UNITED STATES COURT OF APPEALS FOR

FOR THE THIRD CIRCUIT

No. 83-3314

ELIZABETH M. BRADY, Appellant vs.

COMMISSIONER OF INTERNAL REVENUE

(Tax Court D. C. No. 4465-78)

Present: ADAMS, HIGGINBOTHAM and

SLOVITER, Circuit Judges.

1. Appellant's pro-se motion for Clarification of Motion for Reconsideration of motion for Recission, with copy of this Court's Order, dated September 26, 1983, or in the alternative, a decision affirming or denying motion filed July 25, 1983, on the EE Bonds as collateral on this case, in the above-entitled case.

Respectfully, Signed: Valerie Young

enc. vy Deputy Clerk 7-3080

The foregoing Motion is denied.

By the Court,

Signed: Arlin M. Adams,

Judge

Dated: December 8, 1983

vy/ cc E.M.B.

G.L.A., Jr.

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
SALLY MRVOS, CLERK
FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
INDEPENDENCE MALL WEST
601 MARKET STREET
PHILADELPHIA 19106
TELEPHONE 215-597-2995

Ms. Elizabeth M. Brady April 9, 1984

219 Price Avenue, Narberth, PA. 19072

Re: Elizabeth M. Brady, Appellant vs. Commissioner of Internal Revenue No. 83-3314

Dear Counsel and Ms. Brady:

Enclosed herewith is a conformed copy of order filed today staying the issuance of the mandate to June 28, 1984 in the above-entitled case.

If during the period of the stay we receive notification from the Clerk of the Supreme Court that a petition for writ of certiorari has been filed, the stay shall continue until final disposition by the Supreme Court.

Very truly yours, Sally Mrvos, Clerk, By: Betty J. Robinson, Deputy Clerk

ml DIRECT DIAL 597-3133

cc: Glenn L. Archer, Jr. Esq.
Jonathan S. Cohen, Esq.
Libero Marinelli, Jr., Esq.

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 83-3314

ELIZABETH M. BRADY,

Appellant

V.

COMMISSIONER OF INTERNAL REVENUE

Pursuant to Rule 41(b) of the Federal Rules of Appellate Procedure, it is O R D E R E D that issuance of the certified judgment in lieu of formal mandate in the above cause be, and it is hereby stayed until June 28, 1984.

Signed: John J. Gibbons,

Circuit Judge

Dated: April 9, 1984

Supreme Court of the United States

No. A-1029

ELIZABETH M. BRADY,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE

FURTHER ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI

UPON CONSIDERATION of the application of counsel for petitioner(s),

IT IS ORDERED that the time for filing a petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including August 27, 1984

/s/ William J. Brennan

Associate Justice of the Supreme Court of the United States

Dated this 26th day of June, 1984.

(For clarity letter I skipped.)

RULES OF THE SUPREME COURT

RULE 17

(a) When a federal court of appeals has rendered a decision in conflict with the decision of another federal court of appeals on the same matter; or has decided a federal question in a way in conflict with a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision.

(b) When a state court of last resort has decided a federal question in a way in conflict with the decision of another state court of last resort or of a federal court of appeals.

(c) When a state court or a federal court of appeals has decided an important question of federal law which has not been, but should be, settled by this Court, or has decided a federal question in a way in conflict with applicable decisions of this Court.

"RULES OF CIVIL PROCEDURE

FINDINGS BY COURT

Rule 52. Findings by the Court

(a) Effect

In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, ..."

"Federal Rule of Evidence (hereafter, F.R.E.) 401 provides:"

"DEFINITION OF 'RELEVANT EVIDENCE'

'Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."

****

"COURTS OF APPEALS CASES 28 1254

§ 1254. Courts of appeals; certiorari; appeal; certified questions

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;"

THE CONSTITUTION OF THE UNITED STATES

A R T I C L E I

SECTION 9

(Paragraph 4)

"No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken."

A R T I C L E I V

SECTION I

"Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

SECTION 2

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

CONSTITUTIONAL AMENDMENTS

AMENDMENT IV

"The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

AMENDMENT V

....."nor shall any person.....be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

AMENDMENT XIV

SECTION I

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

AMENDMENT XVI

"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

DECLARATION OF INDEPENDENCE

"In CONGRESS, July 4, 1776

A D E C L A R A T I O N

BY THE REPRESENTATIVES OF THE

UNITED STATES OF AMERICA, IN GENERAL CONGRESS Assembled.

When in the Course of human Events, it becomes necessary for one People to dissolve the Political Bands which have connected them with another, and to assume among the Powers of the Earth, the separate and equal Station to which the Laws of Nature and of Nature's God entitle them, a decent Respect to the Opinions of Mankind requires that they should declare the causes which impel them to the Separation.

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness --That to secure these Rights".....

"§ 165. Losses

(a) General rule.-There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

(b) Amount of deduction.-For purposes of subsection (a), the basis for determining the amount of the deduction for any loss shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property.

(c) Limitation on losses of individuals.-In the case of an individual, the deduction under subsection (a) shall be limited to--

(1) losses incurred in a trade or business;

(2) losses incurred in any transaction entered into for profit, though not connected with a trade or business; and

(3) losses of property not connected with a trade or business, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft. A loss described in this paragraph shall be allowed only to the extent that the amount of loss to such individual arising from each casualty, or from each theft, exceeds $100."

"§ 167. Depreciation

(a) General rule.-There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)-

(1) of property used in the trade or business, or

(2) of property held for the production of income."

"§ 212. Expenses for production of income

In the case of an individual, there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year-

(1) for the production or collection of income;

(2) for the management, conservation, or maintenance of property held for the production of income; or

(3) in connection with the determination, collection, or refund of any tax."

Aug. 16, 1954, c. 736, 68A Stat. 69.

FEDERAL TAX REGULATIONS 1974 Volume 1

"§ 1.165 (Comprises Code section 165, see 26 U.S.C.A. (I.R.C. 1954 § 165)

§ 1.165-1 Losses

(a) Allowance of deduction. Section 165(a) provides that, in computing taxable income under section 63, any loss actually sustained during the taxable year and not made good by insurance or some other form of compensation shall be allowed as a deduction subject to any provision of the internal revenue laws which prohibits or limits the amount of the deduction. This deduction for losses sustai-ed shall be taken in accordance with section 165 and the regulations thereunder. For the disallowanc of deductions for worthless securities issued by a political party, see § 1.271-1.

(b) Nature of loss allowable. To be allowable as a deduction under section 165(a), a loss must be evidenced by closed and completed transactions, fixed by identifiable events, and, except as other-wise provided in section 165(h) and § 1.165-11, relating to disaster losses, actually sustained during the taxable year. Only a bona fide loss is allowable. Substance and not mere form shall govern in determining a deductible loss."

ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS

"§ .1.212 (Comprises Code section 212, see 26 U.S.C.A. (I.R.C. 1954) § 212)

§§ 1.212-1 Nontrade or nonbusiness expenses

(a) An expense may be deducted under section 212 only if--

(1) It has been paid or incurred by the taxpayer during the taxable year (i) for the production or collection of income which, if and when realized, will be required to be included in income for Federal income tax purposes, or (ii) for the management, conservation, or maintenance of property held for the production of such income, or (iii) in connection with the determination, collection, or refund of any tax; and

(2) It is an ordinary and necessary expense for any of the purposes stated in subparagraph (1) of this paragraph.

(b) The term "income" for the purpose of section 212 includes not merely income of the taxable year but also income which the taxpayer has realized in a prior taxable year or may realize in subsequent taxable years; and is not confined to recurring income but

§ 1.212-1 Nontrade or nonbusiness expenses

" applies as well to gains from the disposition of property. For example, if defaulted bonds, the interest from which if received would be includibl in income, are purchased with the expectation of realizing capital gain on their resale, even thoug no current yield thereon is anticipated, ordinary and necessary expenses thereafter paid or incurred in connection with such bonds are deductible. Similarly, ordinary and necessary expenses paid or incurred in the management, conservation, or maintenance of a building devoted to rental purposes are deductible notwithstanding that there is actually no income therefrom in the taxable year, and regardless of the manner in which or the purpose for which the property in question was acquired. Expenses paid or incurred in managing, conserving, or maintaining property held for investment may be deductible under section 212 even though the property is not currently productive and there is no likelihood that the property will be sold at a profit or will otherwise be productive of income and even though the property is held merely to minimize a loss with respectthereto."

§ 1.212-1 INCOME TAX REGULATIONS

"(h) Ordinary and necessary expenses paid or incurred in connection with the management, conservation, or maintenance of property held for use as a residence by the taxpayer are not deductible. However, ordinary and necessary expenses paid or incurred in connection with the management, conservation, or maintenance of property held by the taxpayer as rental property are deductible even though such property was formerly held by the taxpayer for use as a home.

(l) Expenses paid or incurred by an individual in connection with the determination, collection, or refund of any tax, whether the taxing authority be Federal, State, or municipal, and whether the tax be income, estate, gift, property, or any other tax, are deductible. Thus, expenses paid or incurred by a taxpayer for tax counsel or expenses paid or incurred in connection with the preparation of his tax returns or in connection with any proceedings involved in determining the extent of his tax liability or in contesting his tax liability are deductible."

IN: "Supplementary Pamphlet 1955-1964
U.S. Code Annotated. Title 26.
Internal Revenue Code.
Book 1-300. Page 391.
Note 32. Production or collection
of income- Generally.

"Under Section 23(a) (2) (IRC 1939)* permitting deductions from gross income for expenses incurred in collection of income or for conservation of property held for production of income, ordinary and necessary expenses, previously deductible only when incurred in carrying on trade or business, are now deductible when incurred for collection of income or conservation of property held for production of income. Id."
(Id. case citation, meaning same as above, is: Spangler vs. C.I.R., C.A. Or. 1963 323 F 2d 913.)
*23 (a) (2) IRC 1939 is now Section 212.)"

(In petitioner's handwriting on printed receipts.)

No. 1 February 24, 1958

Received from Mada C. Reilly Ninety $\frac{xx}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending April 1, 1958.

$90.00 Signed: Elizabeth M. Brady

No. 2 March 31, 1958

Received from Mada C. Reilly Ninety $\frac{xx}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending May 1, 1958.

$90.00 Signed: Elizabeth M. Brady

No. 3 May 1, 1958

Received from Mada C. Reilly Ninety $\frac{xx}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending June 1, 1958.

$90.00 Signed: Elizabeth M. Brady

(Exhibit #3 in Exhibit lodged with Supreme Court.)

No. 4 May 31, 1958

Received from Mada C. Reilly Ninety $\frac{xx}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending July 1, 1958.

$90.00 Signed: Elizabeth M. Brady

No. 5 July 1, 1958

Received from Mada C. Reilly Ninety $\frac{xx}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending August 1, 1958.

$90.00 Signed: Elizabeth M. Brady

No. 6 August 1, 1958

Received from Mada C. Reilly Ninety $\frac{xx}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending September 1, 1958.

$90.00 Signed: Elizabeth M. Brady

No. 7 September 1, 1958

Received from Mada C. Reilly Ninety $\frac{XX}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending October 1, 1958. $90.00 Signed: Elizabeth M. Brady

---

No. 8 October 1, 1958

Received from Mada C. Reilly Ninety $\frac{XX}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending November 1, 1958. $90.00 Signed: Elizabeth M. Brady

---

No. 9 November 1, 1958

Received from Mada C. Reilly Ninety $\frac{XX}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending December 1, 1958. $90.00 Signed: Elizabeth M. Brady

---

No. 10 December 1, 1958

Received from Mada C. Reilly Ninety $\frac{xx}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending January 1, 1959.

$90.00 Signed: Elizabeth M. Brady

No. 11 January 2, 1959

Received from Mada C. Reilly Ninety $\frac{xx}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending February 1, 1959.

$90.00 Signed: Elizabeth M. Brady

No. 12 Feb. 1, 1959

Received from Mada C. Reilly Ninety $\frac{xx}{100}$ Dollars for Rent of 2nd fl. No. 219 Price Ave. Street for one month Period ending March 1, 1959.

$90.00 Signed: Elizabeth M. Brady

No. 13 March 4, 1959

Received from Mada C. Reilly Ninety xx 100 Dollars

for Rent of 2nd fl. No. 219 Price Ave. Street

for one month Period ending April 1, 1959.

$90.00 Signed: Elizabeth M. Brady

AMBRIC TESTING & ENGINEERING ASSOCIATES, INC.
4041 RIDGE AVENUE, BUILDING 11
GERMANTOWN 8-2689 PHILADELPHIA 29, PENNA. CABLE ADDRESS:
GERMANTOWN 8-2690 "AMTEST" – PHILADELPHIA
REGISTERED ENGINEERS TESTING LABORATORIES
• INSPECTORS • • CHEMISTS •

September 4, 1963

Miss Elizabeth M. Brady

219 Price Avenue

Narberth, Pennsylvania

Dear Miss Brady:

We report the results of the leakage test performed on your four (4) inch soil pipe by our representative on August 29, 1963. The purpose of this test was to confirm that several of the joints in the soil pipe would leak when subjected to water pressure resulting from a ten feet or greater head of water. On a preliminary investigation, we noticed moisture at several of the joints, and upon further investigation found that the lead seals at these joints appeared to be porous.

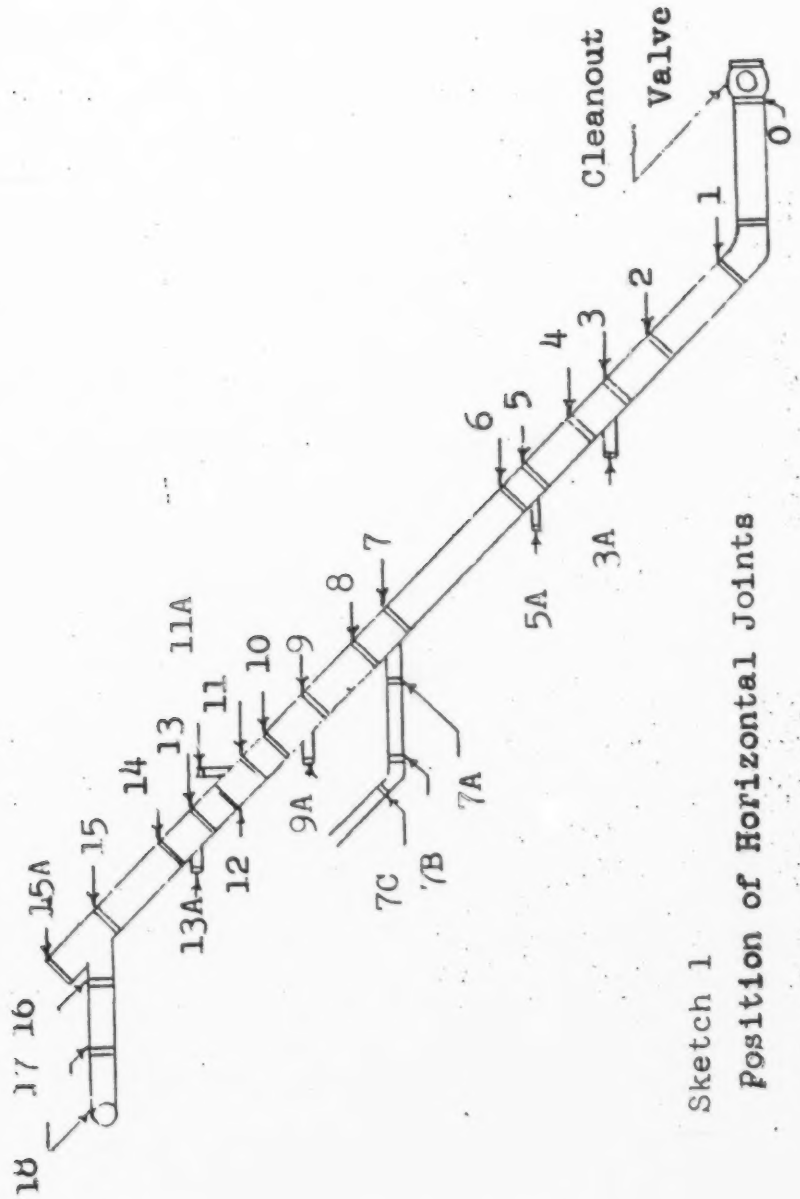
(Exhibit #6 in Exhibit lodged with Supreme Court.)

The test was performed by inserting a four (4) inch pipe plug in the cleanout valve (see sketch 1) and filling the soil pipe through this cleanout valve until the water came out the vent end above the roof (sketch 2). Green dye was placed in the pipe for purposes of identification and measurement of rate of leakage.

Before the water reached the top of the vent, leakage occurred at joints 7C, 12 and several others. When the water reached the top of the vent, the water was turned off and each joint was carefully inspected for leaks. The results are shown in Table I.

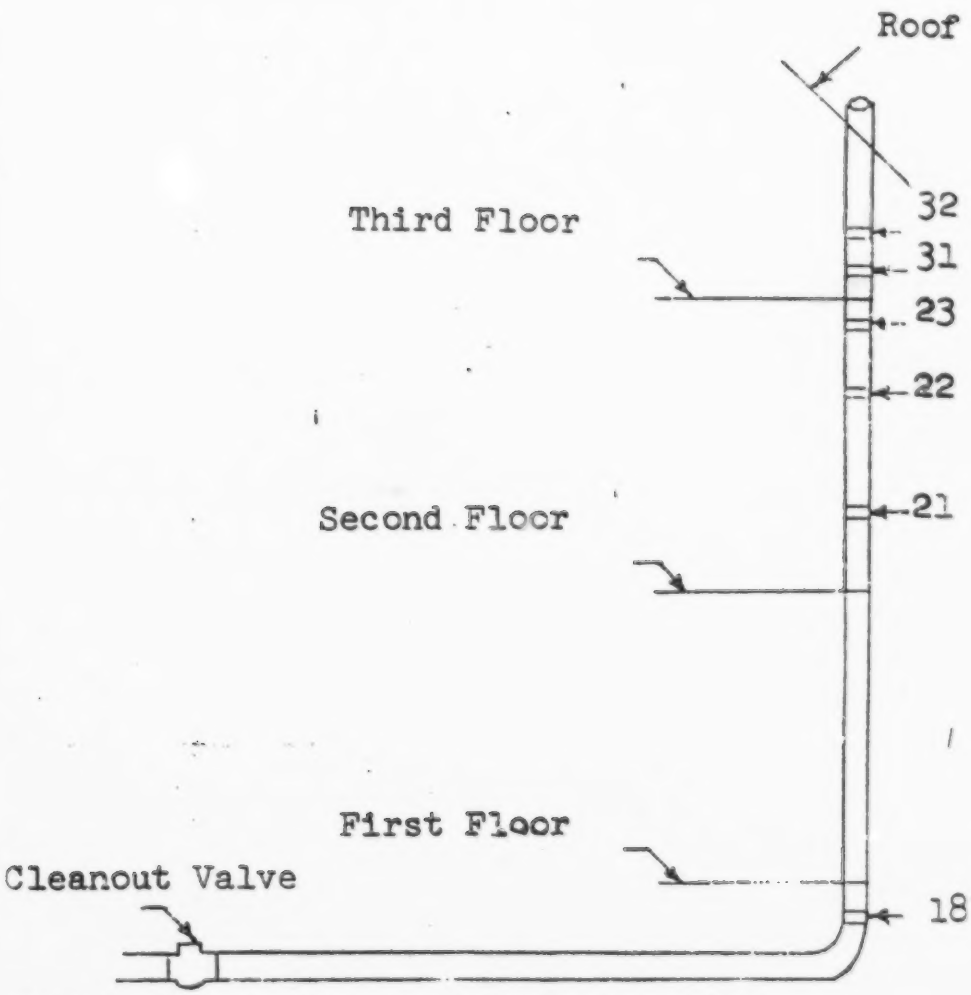
Table I. Results of Leakage Test Pg.2

Joint #	Properties	Joint #	Properties
0	No leak	13	Leaks
1	Leaks	13A	No leak
2	Leaks	14	Leaks
3	Leaks	15	Leaks
3A	No leak	15A	No leak
4	Leaks	16	No leak
5	Leaks	17	No leak
5A	Leaks	18	No leak
6	No leak	21	Leaks
7	Leaks	22	Leaks
7A	Leaks	23	Leaks
7B	Leaks	31	Leaks
7C	Leaks	32	Leaks
8	No leak		
9	Leaks		
9A	No leak		
10	No leak		
11	Leaks		
11A	Leaks		
12	Leaks		



Sketch 1
Position of Horizontal Joints

BEST AVAILABLE COPY



Sketch 2 Position of Vertical Joints

BEST AVAILABLE COPY

The rate of leakage was measured on joint 7C, which leaked at the greatest rate, joint 1, which leaked at the least rate, and joint 12, which leaked at the average rate for the other horizontal joints. The rate of leakage for the vertical joints was not measured.

Table 2 Rate of Leakage

Joint #	Rate of Leakage
7C	1.8 gallons per hour
1	0.016 gallons per hour
12	0.19 gallons per hour

After inspecting all joints and measuring the rate of leakage, the soil pipe was drained. No leak stopped until the pipe was drained beyond the point of that leak. It is our opinion that this pipe can not be repaired in place, and should be replaced in entirety.

Respectfully submitted,

AMBRIC TESTING & ENGINEERING

ASSOCIATES, INC.

Signed: Brian Gaffney,

Assistant Laboratory Director

BG/mak

Form 1040 U.S. 1974

Department of the Treasury-Internal Revenue Service

Individual Income Tax Return

For the year January 1-December 31, 1974.

Name (if joint return, two first names and initials of both) Last name

ELIZABETH M. BRADY

Present home address (number and street, including apartment number or rural route)

219 PRICE AVE.

City, town or post office, State and ZIP CODE

NARBERTH, PENNA. 19072

County of Residence

Your Social Security Number

169-20-1631

Spouse's Social Security No.

Occupation Yours-SHORTHAND REPORTER

Spouse's

Filing Status (check only one)

1 [X] Single

2 [ ] Married filing joint return (even if only one had income)

3 [ ] Married filing separately. If spouse is also filing give spouse's social

(Form 1040 - Continued - Page 1)

security number in designated space above and enter full

name here_____

4 ☐ Unmarried Head of Household (See instructions on page 5)

5 ☐ Widow (er) with dependent child (Year spouse died - 19)

Exemptions		Regular	65 or over	Blind	
6a	Yourself	1	☐	☐	Enter No.of
b	Spouse	☐	☐	☐	checks 1

c First names of your dependent children who lived with you_____ Enter number ___

d Number of other dependents (from line 27)___

7 Total exemptions claimed 1

8 Presidential Election Campaign Fund

(Note: If you check the "Yes" box(es) it will not increase your tax or reduce your refund.

Do you wish to designate $1. of your taxes for this fund? ☐ Yes ☐ No

If joint return, does your spouse wish to designate $1? ☐ Yes ☐ No

(Form 1040-Page 1-Continued.)

INCOME

9	Wages, salaries, tips, (Attach Forms W-2. If unavailable, see Instructions on page 3.) and other employee compensation	9	$20,976.69
10a	Dividends (See Instructions on page 6 and 13)$		
10b	Less exclusion $___ Balance - (If gross dividends and other distributions are over $400. list in Part 1 of Schedule B.)	10c	
11	Interest Income. (If $400. or less, enter total without listing in Schedule B. If over $400. enter total and list in Part II of Schedule B.)	11	582.34
12	Income other than wages, dividends, and interest (from line 38)	12	
13	Total (add lines 9, 10c, 11 and 12)	13	21,559.03

(Form 1040-Page 1 Continued.)

14 Adjustments to income (such as "sick pay", moving expenses, etc. from line 43)

14

15 Subtract line 14 from line 13 (adjusted gross income)

15 $21,559.03

If you do not itemize deductions and line 15 is under $10,000. find tax in Tables and enter on line 16.

If you itemize deductions or line 15 is $10,000. **or more**, go to line 44 to figure tax.

CAUTION. If you have unearned income and can be claimed as a dependent on your parent's return, check here ☐ and see instructions on page 7. Tax, Payments and Credits

16. Tax, check if from ☐ Tax Tables 1-12

☐ Schedule D

☒ Tax Rate Schedule X, Y, or Z

☐ Schedule G OR ☐ Form 4726

16 2,863.18

17 Total credits (from line 54) 17

18 Income Tax (subtract line 17 from line 16) 18 2,863.18

(Form 1040-Page 1 Continued.)

19 Other taxes (from line 61) 19

20 Total (add lines 18 and 19) 20 2,863.18

21a Total Federal income tax withheld (attach Forms W-2 or W-2P to front 21a 4,875.98

b 1974 estimated tax payments (include amount allowed as credit from 1973 return) b 5,381.28

c Amount paid with Form 4868, Application for Automatic Extension of Time to file U.S. Individual Income Tax Return c

d Other payments (from line 65) d

22 Total (add lines 21a, b, c, & d 22 $10,257.26

23 If line 20 is larger than 22, enter BALANCE DUE IRS 23

Pay amount on line 23 in full with this return Write social security number on check or money order and make payable to Internal Revenue Service.

(Check here ☐ if Form 2210, Form 2210F, or statement is attached. See instructions on page 7.

(Form 1040-Page 1 Continued)

24 If line 22 is larger than line 20, enter amount OVERPAID 24 7,394.08

25 Amount of line 24 to be REFUNDED TO YOU 25

26 Amount of line 24 to be credited on 1975 estimated tax. 26 7,394.08

If all of overpayment (line 24) is to be refunded (line 25), make no entry on line 26.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which he has any knowledge.

Sign here: (Signed) Elizabeth M. Brady, March 5, 1975. H O L D A N Y O V E R P A Y M E N T U N T I L C O U R T C A S E I S F I N A L L Y D E C I D E D.

Hand-written & Signed: E.M.B.

EXHIBIT - 1 A

Form 1040 (1974) Other Dependents Page 2

(27 - Dependents - Nothing entered.)

PART I. Income other than Wages, Dividends, and Interest

28 Business income or (loss) (attach Schedule C) 28 $4,526.98

(Net gains or (losses) from:

29 Sale of capital assets-Schedule D

30 Supplemental Schedule of Gains & Losses-Form 4797-Nothing entered.)

31 Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc. (attach Schedule E). 31 -4,534.28

(32 through 37-Nothing entered.)

38 Total (add lines 28 thru 37). Enter here and on line 12 38 M I N U S

(Nothing entered in PART II Adjustments to Income.)

(Form 1040 1974 Page 2 Continued.)

PART III Tax Computation (Do not use this part if you use Tax Tables 1-12 to find your tax.)

44	Adjusted gross income (from line 15)	44 21,559.03
45	(a) If you itemize deductions, check here [X] and enter total from Schedule A, line 41 and attach Schedule A	45 -8,004.97
	(b) If you do not itemize deductions, check here [ ] and enter 15% of line 44, but do NOT enter more than $2000. ($1000. if line 3 checked).	
46	Subtract line 45 from 44	46 13,554.06
47	Multiply No. of exemptions claimed on line 7 by $750.	47 -750.00
48	Taxable income.	48 12,804.06

(Subtract line 47 from line 46. (Figure your tax on the amount on line 48 by using Tax Rate Schedule X, Y, or Z, or if applicable,

(Form 1040 1974 Page 2 Continued.)

the alternative tax from Schedule D, income averaging from Schedule G, or maximum tax from Form 4726.) Enter tax on line 16.

PARTS IV-Credits; PART V-Other Taxes or PART VI-Other Payments: Nothing entered.)

FOREIGN ACCOUNTS: Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U. S. military banking facility operated by a U.S. financial institution)? If "Yes" attach Form 4683.(For definitions, see Form 4683.)[ ] Yes [X] No

SCHEDULE A - ITEMIZED DEDUCTIONS

(Nothing entered under Medical & Dental Expenses.)

(Form 1040 1974 - SCHEDULE A-Continued.)

Itemized Deductions

Taxes (See instructions on page 10.)

11.	State & local income	1,126.09
12.	Real estate 1/2 of 504.38	252.19
13.	State & local gasoline (see gas tax tables)	
14.	General sales (see sales tax tables)	166.40
15	Personal property	
16	Other (Itemize)	
17	Total (add lines 11 thru 16.) Enter here and on line 36	1,544.68

Interest Expense (See instructions on page 11.)

18	Home mortgage 1/2 of 411.61	205.81
19	Other (Itemize)	
20	Total (add lines 18 & 19). Enter here and on line 37	205.81

Contributions (See instructions pg.11

21 a Cash contributions for which you have receipts, cancelled checks, etc. (b & 22 & 23 No Entry)(LIST ATTACHED 1,720.20

24 Total contributions (add lines 21

(Schedule A-Itemized Deductions -Continued.)

(Nothing entered under 25 through 29 Casualty or Theft Losses.)

Miscellaneous Deductions (See instructions pg.12)

(No Entry under 30, 31 & 32.)

33	Other (Itemize)	
	LOSS SCHEDULE E	-4,534.28
34	Total (addlines 30 thru 33) Enter here and on line 40. (IRS ENTRY)	4,534.

SUMMARY OF ITEMIZED DEDUCTIONS A

35	Total medical and dental-line 10	
36	Total taxes-line 17	1,544.68
37	Total interest - line 20	205.81
38	Total contributions-line 24	1,720.20
39	Casualty or theft losses-line 29	
40	Total miscellaneous-line 34	4,534.28
41	Total deductions (add lines 35 thru 40). Enter here and on Form 1040, line 45.	8,004.97

Schedules E & R 1974 Supplemental Income Schedule AND (Form 1040) (From pensions and annuities, rents and royalties, partnerships, estates, and trusts, etc.) Attach to Form 1040. See Instructions for Schedules E & R (Form 1040). (Retirement Income Credit - Not applicable.)

Name: (As shown on Form 1040) Social Security #

ELIZABETH M. BRADY 169-20-1631

Schedule E-Supplemental Income Schedule

(Nothing entered in PART I Pension & Annuity.)

PART II Rent & Royalty ~~Income~~ LOSS.

(Word "LOSS" inserted by Taxpayer.)

(Other instructions not applicable.)

(a) Kind & location of property. If residential also write "R".

217-219 PRICE AVE.NARBERTH,PA. 2FL.APT.EMPTY

(b) Total amount of rents	$90. x 12	
1 Totals L O S S	-1080.	- 1080.
(c) Total amount of royalties	(No entry.)	
(d) Depreciation-Explain	848.43	-848.43
(e)Other Expenses,Repairs-Explain below	2605.85	-2605.85
2 Net income or (loss) from rents & royalties a+b-c&d		- 4534.28

SCHEDULE E (Continued.)

(Nothing entered in PART III. Income or Losses from partnerships, Estates or Trusts, Small Business Corporations.)

TOTAL OF PARTS I, II, AND III

Enter here and on Form 1040,

line 31 -- 4534.28

Explanation of Column (e) PART II

SEE FIVE ATTACHED SHEETS

Schedule for Depreciation Claimed in PART II above.

SEE FIVE ATTACHED SHEETS 1974 SCHEDULE E, SCHEDULE FOR DEPRECIATION

****

217-219 Price Avenue, Narberth, Penna.

Maintenance, Repairs & Other Expenses

1974

Jan. 9	Two Boys	Snow Shoveling	6.00
	Lyons Bros.	Salt	10.60
13	Ricklins	Right-angle drive for Drill	3.45
Feb.10	Woolworth	Glass Cutter	1.03
13		Electrical Tape	.48
15	Ricklins	Putty	.63
16	Ricklins	Window Panes	2.38
May 25	Paul J. Quinn	Water Gauge on Heater	18.00
July 10	Ricklins	Pipe Wrench	7.10
Aug. 19		Drill bits, pliers, chisel	14.19
Sept. 5	Stanley Hardware	Special Screws-Mower Aluminum Heavy Fastners	7.43
Oct. 1	E & J Tree Service	Remove Limbs hanging over sidewalk & limbs near rooftop	120.00

Oct. 23	Daryl School	Electrical Books	14.25
24	Ricklins	Drill	11.96
Nov. 16	Penn Electric	Crimp Tool	6.30
18	Alsto Co.	Utility Handtruck	20.75
25	Ricklins	Burlap, pliers Screws	25.99
Dec. 10		Roofing Cement & Roofing Coating	19.54
16	Paul J. Quinn	Clean & Service Heater	23.00
27	Ricklins	Drill bit	1.28
TOTAL			$314.36

217-219 Price Avenue, Narberth, Penna.

Maintenance, Repairs & Other Expenses -

Continued 1974

TOTAL (Carried Forward)		
	$314.36 1/2 of	157.18
Electric & Gas Meters		
2nd Fl.	$22.34 (Min.)	
Electric Meter 3rd Fl.	$14.31 (Min.)	
Total	$36.65	36.65
Interest-Mortgage	$411.61 1/2 of	205.80
Taxes $217.65		
$286.73		
Total $504.38	$504.38 1/2 of	252.19
Fire Insurance	122. 1/2 of	61.00
Oil	607.12	303.56
Legal Expenses (See separate List.)		1589.47
TOTAL		$2605.85

217-219 Price Avenue, Narberth, Pa.

Improvements & Replacement Items for Depreciation - 1974

Feb. 9	Smith Supply-Flat Steel Bars	2.58
Apr. 4	T.E.Morley-2 Outside Electric Fixtures	19.58
June 15	Rose Electric-2 lengths EMT 1-1/4" Electric Pipe, Boxes fastners & connectors	66.38
22	Harboc Electric-1 length EMT Pipe	13.90
Oct. 12	Smith Supply-Bits for Drill	12.99
19	Rittenhouse Electric-Electrical Parts	2.04
Nov. 14	Scheepers-Daffodil bulbs	17.02
16	Penn Electric-3 lengths 1-1/4" threaded Alum. Conduit, Elbow Couplings	40.00
23	Rittenhouse Electric-Switches	3.64
Dec. 30	Penn Electric-3 lengths 3/4" Threaded Alum.Conduit, Ell&Couplings	17.27
TOTAL		$195.40

217-219 Price Avenue, Narberth, Penna.

Legal Expenses - 1974 - Court Appeal

Jan. 28	Speedy Impressions-		
		Photostats	4.24
March 8		Photostats	1.81
April 5	Woolworth	Photostats	.43
15	Athens	Photostats	1.06
16	Woolworth	Photostats	2.60
18		Photostats	.20
June 7		Cellophane Cover	.97
	Dimes	Photostats	11.70
8	Athens	Photostats	6.50
9		Scotch Tape	1.18
9	Sunday Taxi to 30th St. Post Office & Train Return		11.50
9	Postage to Court		6.00
11	Speedy Impressions		
		Photostats	3.39
17	National Reporting		
		Transcript	15.75
Sept. 18	Speedy Impressions		
		Photostats	14.92

Legal Expenses - 1974 - Court Appeal

Sept. 19	Speedy Impressions Photostats	.53
April 1	Legal Fee - Atty.	200.00
July 2	Legal Fee - Atty.	806.69
Sept. 11	Legal Fee - Atty.	500.00
TOTAL		$1589.47

217-219 Price Avenue, Narberth, Penna.

1974-Schedule E

Schedule For Depreciation in Part II

Column			Asset Additions Appreciation
a.	b.	c.	
Same	1974	$42,421.62	$195.40
	1973	42,226.22	3,082.06
	1972	39,144.16	6,154.46
	1971	32,989.70	1,946.28
	1970	31,043.42	1,183.00
	1969	29,860.42	696.56
	1968	29,163.86	243.51
	1967	28,920.35	209.96
	1966	28,710.39	150.97
	1965		650.82
	1964		1,441.07
	1963		494.11
	1962		1,650.62
	1961		479.94
	1961	(REFINANCING)	118.00
	1960		2,458.03

(Continued next page.)

(Continued.)

Column a.	b.	c.	Asset Additions Appreciation
Same	1959		4,559.88
	1959	(REFINANCING)	252.50
	1958		109.76
	1957		2,540.51
	1956	(PURCHASE)	15,304.18
TOTAL COST OR OTHER BASIS			$43,921.62
		Land	-1,500.00
			$42,421.62

TOTAL DEPRECIATION (ENTER HERE AND INCLUDE IN TOTAL ON PART II, FORM 1040, SCHEDULE E. $848.43

(e. f. d&g. on next page.)

1974-Schedule E (Continued.)

Schedule For Depreciation in Part II

Column e.	f.	d.&g.
(1/2 of $1696.86)	25 YR.	$848.43
1689.04		844.52
1565.76		782.88
1319.58		659.79
1241.73		620.86
1194.41		597.20
1166.55		583.27
1156.81		578.40
1148.41		574.20
1142.37		571.18
1116.34		558.17
1058.70*		*529.35
1038.93*		*519.46

*Amended Returns 1962 & 1963.

Total Depreciation $848.43 - 1974 "

"Rec'd May 27, 1978 Tres. Check No. 96,616,193. Symbol 305315-51/over 000 dated 5/26/78 Elizabeth M. Brady 219 Price Ave.Narberth PA. 19072 Amt.$6522.31 93 Tax Ref. 12/77 169-20-1631 Phila. 23 Symbols on check 30536 0000 0051/:966161933//'. Address on Envelope P.O.Box 7838, Phila. 19101."

"Enclosed Your Refund

The amount of the enclosed tax refund is different from that claimed on your return. We are sending you separately a complete explanation of the difference.

You may cash the refund check now or, if you prefer, you may wait for our explanation. Then, if you believe we have made an error, please write to the Internal Revenue Service office at the address shown on the explanation. They will be glad to make any required correction.

Thank you for your cooperation.

Department of the Treasury Internal Revenue Service Notice 54 (Rev. 12-73)"

"April 13, 1979. This will have to be held until Court Hearing is had. So it has not actually been received until cashed." (Taxpayer's Notation.)

Not cashed as of Aug. 22, 1984

APPENDIX O App. 49 and - - - - - - - - - -

"STATISTICAL ABSTRACT OF

U. S. DEPARTMENT

BUREAU OF

236 FEDERAL GOVERNMENT

No. 389. FEDERAL INDIVIDUAL INCOME - - - - - - - - -

EXEMPTIONS AND EFFECTIVE RATES, FOR - - - - - - - - -

(Refers to income after exclusions. Computa- - - -

deduction, or itemized deductions equal to - - - - -

is greatest. Excludes self-employment tax. - - - - -

1970, series Y 412-439, for similar data - - - - - - -

ADJUSTED GROSS INCOME[1]	LIABILITY (dollars) 1954-1963	1964	1970[2]	1972-1973	
Single person, no dependent:					
$2,000	240	180	58	-	- - - - -
$3,000	422	360	302	138	- - - - -
$5,000	818	720	683	491	- - - - -
$10,000	2,096	1,872	1,778	1,530	- - - - -
$15,000	3,787	3,378	3,224	2,703	- - - - -
$20,000	5,900	5,233	5,031	4,255	- - - - -
$25,000	8,324	7,410	7,144	5,895	- - - - -
$35,000	13,778	12,344	11,904	9,728	- - - - -
$50,000	22,788	20,384	19,695	16,740	- - - - -
$75,000	39,702	35,267	34,020	30,710	- - - - -

THE UNITED STATES 1975

OF COMMERCE

THE CENSUS

FINANCES AND EMPLOYMENT

- - -TAX LIABILITY BEFORE DEDUCTIONS AND

- - -SELECTED INCOME GROUPS: 1954 TO 1975

- -tions assume the low income allowance, standard

- -10 percent of adjusted gross income, whichever

- -See Historical Statistics, Colonial Times to

- -based on net income.)

(dollars)		RATE[4] (percent)					
1974[3]	1975[3]	1954-1963	1964	1970[2]	1972-1973	1974[3]	1975[3]
-	-	12.0	9.0	2.9	-	-	-
38	63	14.1	12.0	10.1	4.6	1.3	2.1
391	404	16.4	14.4	13.7	9.8	7.8	8.1
1,377	1,476	21.0	18.7	17.8	15.3	13.8	14.8
2,503	2,587	25.2	22.5	21.5	18.0	16.7	17.2
4,055	4,123	29.5	26.2	25.2	21.3	20.3	20.6
5,745	5,865	33.3	29.6	28.6	23.6	23.0	23.5
9,628	9,698	39.4	35.3	34.0	27.8	27.5	27.7
16,640	16,710	45.6	40.8	39.4	33.5	33.3	33.4
30,610	30,680	52.9	47.0	45.4	40.9	40.8	40.9

APPENDIX O App. 49b and - - - -

"S T A T I S T I C A L A B S T R A C T O F

ADJUSTED GROSS INCOME	LIABILITY (dollars) 1954-1963	1964	1970[2]	1972-	
Married couple, no dependent:					
$2,000	120	64	-	-	- - -
$3,000	300	226	137	28	- - -
$5,000	660	554	503	322	- - - -
$10,000	1,636	1,440	1,366	1,190	- - -
$15,000	2,810	2,501	2,381	2,150	- - - -
$20,000	4,192	3,744	3,557	3,400	- - -
$25,000	5,774	5,162	4,900	4,700	- - -
$35,000	9,601	8,523	8,177	7,880	- - - -
$50,000	16,648	14,819	14,289	13,820	- - -
$75,000	30,415	27,266	26,299	25,520	- - - -

-. O F T H E U. S. 1975 - (Continued.)

(dollars)		RATE[4] (percent)					
1974[3]	1975[3]	1954-1963	1964	1970[2]	1972-1973	1974[3]	1975[3]
-	-	6.0	3.2	-	-	-	-
-	-	10.0	7.5	4.6	0.9	-	-
222	170	13.2	11.1	10.1	6.4	4.4	3.4
1,071	1,054	16.4	14.4	13.7	11.9	10.7	10.5
1,950	2,002	18.7	16.7	15.9	14.3	13.0	13.3
3,200	3,175	21.0	18.7	17.8	17.0	16.0	15.9
4,550	4,608	23.1	20.6	19.6	18.8	18.2	18.4
7,780	7,820	27.4	24.4	23.4	22.5	22.2	22.3
13,720	13,760	33.3	29.6	28.6	27.6	27.4	27.5
25,420	25,460	40.6	36.4	35.1	34.0	33.9	33.9

"S T A T I S T I C A L A B S T R A C T

ADJUSTED GROSS INCOME[1]	LIABILITY (dollars) 1954-1963	1964	1970[2]	1972-1973
Married couple, 2 dependents:				
$3,000	60	-	-	-
$5,000	420	325	275	98
$10,000	1,372	1,200	1,122	905
$15,000	2,486	2,209	2,091	1,820
$20,000	3,800	3,392	3,213	3,010
$25,000	5,318	4,754	4,490	4,240
$35,000	9,037	8,031	7,677	7,295
$50,000	15,976	14,213	13,674	13,100
$75,000	29,635	26,564	25,594	24,695

— Represents zero [1]Income from sources - - -

[2]Includes income tax surcharge. [3]Reflects - - - - -

1974 includes retroactive tax rebate.

[5]Refundable earned income credit.

Source: U.S. Dept. of the Treasury,- - - - - - -

. O F T H E U. S. 1975 - (Continued.)

(dollars)		RATE[4] (percent)					
1974[3]	1975[3]	1954-1963	1964	1970[2]	1972-1973	1974[3]	1975[3]
-	[5]-300	2.0	-	-	-	-	-10.0
-	[5]-300	8.4	6.5	5.5	2.0	-	-6.0
805	709	13.7	12.0	11.2	9.0	8.0	7.1
1,638	1,612	16.6	14.7	13.9	12.1	10.9	10.7
2,810	2,740	19.0	17.0	16.1	15.0	14.0	13.7
4,090	4,092	21.3	19.0	18.0	17.0	16.4	16.4
7,195	7,175	25.8	22.9	21.9	20.8	20.6	20.5
13,000	12,980	32.0	28.4	27.3	26.2	26.0	26.0
24,595	24,575	39.5	35.4	34.1	32.9	32.8	32.8

- subject to tax, less certain exclusions.

- changes made by the Tax Reduction Act of 1975.

[4]Tax liability divided by states income.

- unpublished data.

"S T A T I S T I C A L A B S T R A C T

No. 390 FEDERAL INCOME AND PAYROLL - - - - - - - - -

ONE EARNER, BY SELECTED - - - - - - - - -

(Tax rate is percent of earnings, or tax - - - - - -
represent "effective" tax rates and were - - - - -
payroll tax rates. Payroll taxes include - - - - -
For the $5,000, $10,000, and $15,000 - - - - - - -
deduction was taken. For the $25,000 - - - - - - -
Income tax surcharge is included for 1968.)

ITEM	EARNINGS LEVEL, 1963			
	$5,000	$10,000	$15,000	$25,000
Total tax	$768	$1,720	$2,964	$5,237
Income tax	420	1,372	2,616	4,889
Payroll tax	348	348	348	348
ax rate, total	15.4	17.2	19.8	20.9
ncome tax rate	8.4	13.7	17.4	19.6
yroll tax rate	7.0	3.5	2.3	1.4

O F T H E U. S. 1975 (Continued.)

- - TAXES FOR A FOUR-PERSON FAMILY WITH
- - EARNINGS LEVELS: 1963 TO 1973
- - liability divided by earnings. Data
- -calculated from statutory individual income and
- -both employee and employer taxes.
- -categories, it is assumed that the standard
- -category, itemized deductions are assumed.

EARNINGS LEVEL 1968			
$5,000	$10,000	$15,000	$25,000
$748	$1,884	$3,075	$5,048
308	1,198	2,389	4,362
440	686	686	686
15.0	18.8	20.5	20.2
6.2	12.0	15.9	17.4
8.8	6.9	4.6	2.7

"STATISTICAL ABSTRACT OF THE U.S. 1975"

(Continued.)

	EARNINGS LEVEL 1973			
ITEM	$5,000	$10,000	$15,000	$25,000
Total tax	$683	$2,075	$3,084	$5,154
Income tax	98	905	1,820	3,890
Payroll tax	585	1,170	1,264	1,264
ax rate, total	13.7	20.8	20.6	20.6
ncome tax rate	2.0	9.0	12.1	15.6
ayroll tax rate	11.7	11.7	8.4	5.0

Source:- Brookings Institution, Setting National Priorities, The 1974 Budget, by Edward R. Fried, Alice M. Rivlin, Charles L. Schultze, and Nancy H. Teeters, and unpublished data provided by **Edward M. Gramlich.** (Copyright (C) 1973 by the Brookings Institution, Washington, D. C.)"

****

(Written in the handwriting of Mary A. Brady.)

Inter Vivos

This instrument constitutes the trust agreement between Mary A. Brady and Elizabeth M. Brady, half sisters, with regard to house and premises at 219 Price Avenue, Narberth, Penna.

1. The ownership of house and premises at 219 Price Avenue, Narberth, Penna. is that of Mary A. Brady exclusively.

2. The Trustee of the house and premises at 219 Price Ave. Narberth, Penna. is that of Elizabeth M. Brady exclusively, until the death of either Mary A. Brady or Elizabeth M. Brady at which time ~~this~~ this trust agreement shall cease.

3. Elizabeth M. Brady as Trustee shall have the right to mortgage and/or sell the house and premises at 219 Price Ave. Narberth Penna. for the benefit of the owner, Mary A. Brady.

(Exhibit #1 in Exhibit submitted to Supreme Court.)

4. Mary A. Brady and Elizabeth M. Brady shall have the right to reside in the house and premises at 219 Price Avenue, Narberth Penna.

(Page 1 of 2 Pages.) EXHIBIT NO. 1. Inter Vivos Trust Agreement between Mary A. Brady and Elizabeth M. Brady page 2.

5. Elizabeth M. Brady shall have the right to therein whatever is necessary for the proper maintenance of Mary A. Brady and Elizabeth M. Brady, and to do whatever is necessary for the maintenance of the property.

6. There shall be ~~ne~~ no monetarial charge on either party to this trust agreement as to the rights and/or duties exercised herein.

Signed: Mary A. Brady

Signed: Elizabeth M. Brady

Dec. 10, 1956

(Page 2 of 2 Pages.)

I said no way are (you) going to put a wall across that plumbing.

THE COURT: What year are you talking about?

THE WITNESS: I think I'm talking about 1977 or '78.

THE COURT: All right. You're beyond the year we are concerned with here. We are only talking about '74.

THE WITNESS: Well, this is -- I wanted to show that this condition of not being able to get (DRAINAGE)* plumbing, and it's gone into everything else.

THE COURT: Well, okay.

THE WITNESS: And so then he - he didn't want to do anything further, if I wouldn't put a wall across that plumbing. It was in the ground.

THE COURT: Well, we -- all right. I think you've established that fact.

THE WITNESS: Yes, okay. So I went to another man, and his architecture was terrible. His drawings were terrible. I went to another architect. He sent out a girl.

THE COURT: But this isn't '74, is it?

*Petitioner's Inked Correction.

(Continued.) 16

THE WITNESS: No, this is later.

THE COURT: No, all right.

THE WITNESS: I just want to show --

THE COURT: No, I don't want to hear this.

I don't want to hear this. I want to hear just '74.

THE WITNESS: Okay.

*Petitioner's indication.

ordinary person that works 40 hours a week.

THE COURT: All right.

MS. BRADY: But I still have made tremendous efforts, and I would like to put this in as an exhibit, and I don't have a copy here for him, but I can give it to--

* (THE COURT: What is this?

* (MS. BRADY: This is from the 1967-68 * case for background.)

THE COURT: I'm afraid that's not admissible. I'm sorry.

MS. BRADY: You don't think it is.

THE COURT: No.

MS. BRADY: All right, Your Honor.

THE COURT: All right. Fine. Thank you very much.

MS. BRADY: Thank you, Your Honor.

THE COURT: All right. Suppose we have memorandum briefs in this case. How much time would you like to have? 60 days be agreeable?

MS. BRADY: How long, Your Honor?

THE COURT: 60 days. 60.

MS. BRADY: Yes.

*Petitioner's Inked Correction.

(Continued.) 20

THE COURT: All right.

MS. BRADY: Which side is that for?

THE COURT: Each side has 60 days.

MS. BRADY: Each side 60 days, yes, Your Honor.

THE COURT: All right. 60 days. The clerk will give you the date.

THE CLERK: That's November 19.

UNITED STATES TAX COURT

WASHINGTON, D. C. 20217

ELIZABETH M. BRADY,

Petitioner,

V. Docket No. 4465-78

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

SUPPLEMENTAL MOTION TO CORRECT TRANSCRIPT

The Honorable Court is respectfully petitioned to incorporate on page 20: the following after Line 5:

"THE COURT: What is "this"?

MS. BRADY: This is from the 1967-68 case for background."

Signed: ELIZABETH M. BRADY

219 PRICE AVENUE

NARBERTH, PA. 19072

DATE: July 15, 1983.

*"Motion to correct Transcript".

CORRECTIONS - ERRATA

TRANSCRIPT OF SEPTEMBER 20, 1982-DOCKET NO. 4465-78

ELIZABETH M. BRADY VS. COMMISSIONER OF INTERNAL REVENUE

TRANSCRIPT APRIVED JANUARY 4, 1983.

Page 8 Line 21 should be:

cases on this property, one in Tax Court and one in U. S. District Court, and I attempted to

Page 9 Line 17 should read:

and we found out that when -- there was previously an apartment on the second floor, and then it had been used as one home by a doctor -- we found out that when the second floor sink emptied,

Line 24 should read:

the drainage plumbing will work.

Line 25 should read:

So I had new drainage plumbing put in. And the man that

Page 10 Line 2 should read:

openings for future fixtures, he left several of them open just with steel wool in them. The place stank terribly.

Line 4 should read:

It stank worse than it ever did before, it

* Tax Court Clerk's Ink Notation.

smelled before, because it didn't have an air pipe going through the roof, and then it had one for the second floor, but it

(Judge's Stamp): Granted.

Signed: ARTHUR L. NIMS, III

EE APPENDIX

UNITED STATES TAX COURT

Washington, D. C. 20217

ELIZABETH M. BRADY,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Docket No. 4465-78

D E C I S I O N

Pursuant to the determination of the Court, as set forth in its Opinion filed March 24, 1983, it is

ORDERED AND DECIDED: There is a deficiency in petitioner's income tax in the amount of $2,304.00 for the taxable year 1974.

Signed: Arthur L. Nims III

Arthur L. Nims, III

Judge.

Entered: Mar. 25, 1983

NOTICE OF APPEAL TO COURT OF APPEALS

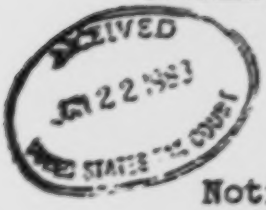
UNITED STATES TAX COURT

ELIZABETH M. BRADY, Petitioner

V. Docket No. 4465-78

COMMISSIONER OF INTERNAL REVENUE,

Respondent.



NOTICE OF APPEAL

Notice is hereby given that Elizabeth M. Brady hereby appeals to the United States Court of Appeals for the Third Circuit from the Opinion of this Court of March 24th, 1983 and Decision and Order entered in the above captioned proceeding on March 25th 1983, relating to deficiency in petitioner's income tax in the amount of $2,304.00 for the taxable year 1974.

Signed: Elizabeth M. Brady.
219 Price Avenue,
Narberth, PA. 19072
Petitioner.

DATE: June 21, 1983.

STAMP: Received: Jun. 22, 1983
United States Tax Court.

UNITED STATES TAX COURT

WASHINGTON, D. C. 20217

ELIZABETH M. BRADY,

Petitioner,

V. Docket No. 4465-78

COMMISSIONER OF INTERNAL REVENUE

Respondent.

O R D E R

Petitioner on June 22, 1983, filed a Notice of Appeal with respect to this Court's decision entered in the above case on March 25, 1983. Accompanying this Notice of Appeal was a "Bond," a "Power of Attorney and Agreement by Individual" and Series EE Bonds of various denominations.

The securities to be deposited as a bond to secure the obligation to pay any deficiency ultimately determined to be due from petitioner consist of Series EE United States Government Savings Bonds which have a current

redemption value in excess of double the amount of the deficiency as found by this Court. United States Government Savings Bonds may not be pledged or used as security for the performance of an obligation. See Treasury Regulation concerning U. S. Savings Bonds at 31 C.F.R., 315.16 (1980). The above-referred regulation provides an exception where the Secretary of the Treasury is the bond approving officer. Pursuant to Section 7485 of the Internal Revenue Code of 1954, as amended, the bond approving authority with respect to bonds to stay assessment or collection of a deficiency found by this Court is the Court itself. The above-referred exception would not be applicable to the instant situation as the Secretary of the Treasury is not the bond

approving officer. This regulation would operate to prevent the Clerk of this Court, if the Court accepted the bonds, from exercising the power of attorney to sell the bonds and to apply the proceeds of the sale to the deficiency due if this Court's opinion is affirmed by the court of appeals and the petitioner fails to pay the deficiency as determined. Accordingly, it is ORDERED that the Clerk of the Court is directed to return to petitioner by registered mail the Bond and Power of Attorney and Agreement by Individual along with the Series EE Bonds which were hand delivered to the Court by petitioner on June 22, 1983.

(Signed) Arthur L. Nims, III

Judge

Dated: Washington, D. C.

July 7, 1983

UNITED STATES TAX COURT

WASHINGTON, D. C. 20217

(Tax Court Clerk's Stamp: United States Tax Court Filed 1983 Jul 13 AM 10:02)

ELIZABETH M. BRADY,

Petitioner

V. Docket No. 4465-78

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

(Tax Court Stamp: U.S.TAX COURT DENIED JUL 13, 1983 (Signed) ARTHUR L. NIMS III, JUDGE)

Motion For Reconsideration

Of Order of July 7, 1983 ordering return to petitioner by registered mail the Bond and Power of Attorney and Agreement by Individual along with the Series EE Bonds which were hand delivered to the Tax Court on June 22, 1983.

The Court's Order states that the Bond Approving Authority is the Court itself.

The Court is concerned with payment, cash to the Government, not transfer.

These EE Bonds are issued by the Government, itself, not a private party, and the Government now has the money their purchase

represents, in double the amount of the Order of March 25, 1983.

It is respectfully submitted that 31 C.F.R. Sec. 315.16 (1980) refers to transfer or pledge to private parties, not to the Government, itself.

-1- (End of Page.)

Further, 31 C.F.R. Subpart D- 315.15 Transfer says:

"Savings bonds...are payable only... except as specifically provided in these regulations..."

Subpart E 315.20 (b) says:

"The Department of the Treasury will recognize a claim against an owner of a savings bond...if established by valid, judicial proceedings..." Section 315.23 specifies the evidence required to establish the validity of the judicial proceedings."

Subpart E 315.23 Evidence says:

"(a) General. To establish the validity of judicial proceedings, certified copies of the final judgment, decree, or court

order, and of any necessary supplementary proceedings, must be submitted."

Subpart H 315.40 says:

"(d) Attorneys-in-fact. A request for payment signed by an attorney-in-fact will be recognized if it is accompanied by a copy of a power of attorney, executed before a certifying officer, that authorizes the attorney-in-fact to sell or cash the grantor's Treasury securities."

It is submitted that inasmuch as the Court is the Bond approving Authority, that 31 C.F.R. Sections quoted above D 315.15; E. 315.20 (b); E 315.23 (a); and H 315.40 (d) all provide methods of payment for these Bonds.

It is also submitted the Treasury of the United States, itself, now has double the money at issue.

It is, therefore, respectfully requested that the Honorable Court approve these bonds in this instance.

Signed: ELIZABETH M. BRADY.

July 10, 1983 219 PRICE AVE., NARBERTH, PA. 19072

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

ELIZABETH M. BRADY, No. 83-3144

Appellant.

VS. (T.C. No. 4465-78)

COMMISSIONER OF INTERNAL REVENUE,

Appellee.

M O T I O N

APPEAL OF ORDERS OF JULY 7, 1983 AND JULY 13, 1983

Of the United Statex Tax Court denying acceptance of United States Savings EE Bonds, as collateral on the appeal of this case, to stay assessment and collection procedures before final adjudication.

The Order* of July 7, 1983 cites one section of Treasury Regulations on Savings Bonds, name,ly, 31 C.F.R. Sec. 315.16 (1980) as the basis of denying acceptance of the United States Savings EE Bonds as collateral on the appeal of this case. (In ink: *Ex. AA.)

The Order of July 13, 1983 stamped "Denied" on Petitioner's Motion for Reconsideration, which cited further Sections of Treasury Regulations which allow payment after court order and final adjudication.

Appellant relied on Book of Rules received from United States Tax Court, specifically, Page 133, Form 10, Appeal Bond, Approved Collateral, and Page 135, Form 12, Power of Attorney and Agreement by Individuals. See Exhibits A and B attached. And in reliance on Form 10 and Form 12, purchased these EE Bonds at the bank from a Savings Account, specifically for the purpose of the appeal of this case, the day **before** the filing of the Notice of Appeal. This purchase was made because of the running of the time for appeal and the unmeshable approaches between the insurance company and the bank together with the lack of time.

The Rules of the United States Tax Court do not say any specific kind of United States Bond, or eliminate any specific kind of United States Bond, nor does Treasury Circular No. 154* do so, the one page Circular and 31 CFR Part 315 having been mailed to appellant after depositing EE Bonds in the Tax Court, the mailing having been done by the Treasury. (In ink: *Ex. C.)

The Tax Court's Order states that the Bond Approving Authority is the Court itself.

The Court is concerned with payment, cash to the Government, not transfer. The Government now has the cash, and control of the EE Bonds, upon acceptance and approval of the Court.

-2- (End of Page.)

These EE Bonds are issued by the Government, itself, not a private party, and the Government now has the money their purchase represents, in double the amount of the Order of March 25, 1983, of the United States Tax Court.

It is submitted appellant ought to be able to rely on the Published Rules of the United States Tax Court, and with which Rules compliance was had.

It is respectfully submitted that Treasury Regulations on Savings Bonds 31 C.F.R. (In ink: Ex. D) Sec. 315.16 (1980) refers to transfer or pledge to private parties, not to the Government, itself.

It is further submitted that 31 C.F.R. Subpart D 315.15 Transfer says:

"Savings bonds...are payable only... except as specifically provided in these regulations..."

Subpart E 315.20 (b) says:

"The Department of the Treasury will recognize a claim a ainst an owner of a savings bond...if established by valid, judicial proceedings..." Section 315.23 specifies the evidence required to establish the validity of the judicial proceedings."

Subpart E 315.23 (a) Evidence says:

"General. To Establish the validity of judicial proceedings, certified copies of the final judgment, decree, or court order, and of any necessary supplementary proceedings, must be submitted."

-3- (End of Page.)

Subpart H 315.40(d) days:

"Attorneys-in-fact. A request for payment signed by an attorney-in-fact will be recognized if it is accompanied

"by a copy of a power of attorney, executed before a certifying officer, that authorizes the attorney-in-fact to sell or cash the grantor's Treasury securities."

It is respectfully submitted that 31 C.F.R Sections quoted above Subpart D 315.15; Subpart E 315.20 (b); Subpart E 315.23 (a); and Subpart H 315.40 (d) all provide methods of payment for these EE Bonds.

It is also respectfully submitted that the Treasury of the United States, itself, now has double the money at issue. And with the asset of the Bonds held by the Court with the power of Attorney, the EE Bonds are under the control of the Court.

It is respectfully submitted that the Rules of the United States Tax Court in its Form 10, Page 133 says on the fifth and ninth line from the bottom of the page: bonds/notes of the United States, without delineation.

It is also respectfully submitted that Treasury Department Circular No. 154, Sec. 225.2 says: United States bonds,

Treasury notes, or other public debt obligations of the United States, without delineation.

-4- (End of Page.)

It is respectfully submitted EE Bonds are United States Bonds.

It is respectfully submitted that the Court may approve these Bonds in this instance within the Above Regulations of the Treasury Department and within the Rules of the United States Tax Court, and within the power of the Court, itself, as the judicial body of the United States Government. Especially so that the United States Treasury now has double the amount of money under the decision of the Tax Court of March 25, 1983. And, in common sense, that the Treasury will not disavow its own Bonds, having the money that the Bonds represent; and in the unlikely event that there would be no other asset and that the Tax Court decision would be affirmed, would not hesitate to seize the assets of these Bonds.

For all these reasons, it is respectfully requested that the EE Bonds in double the amount of the decision of the

United States Tax Court of March 25, 1983, handed to the United States Tax Court on June 22, 1983, and resubmitted by Registered Mail on July 11, 1983, for reconsideration, both of which were denied, be approved for the appeal of this case.

-5- (End of Page.)

ELIZABETH M. BRADY, Pro Se.
219 PRICE AVENUE
NARBERTH, PA. 19072

JULY 24, 1983.

-6- (End of Page.)

UNITED STATES TAX COURT

WASHINGTON, D. C. 20217

ELIZABETH M. BRADY,

Petitioner,

V. Docket No. 4465-78

COMMISSIONER OF INTERNAL REVENUE

Respondent.

O R D E R

Petitioner on June 22, 1983, filed a Notice of Appeal with respect to this Court's decision entered in the above case on March 25, 1983. Accompanying this Notice of Appeal was a "Bond," a "Power of Attorney and Agreement by Individual" and Series EE Bonds of various denominations.

The securities to be deposited as a bond to secure the obligation to pay any deficiency ultimately determined to be due from petitioner consist of Series EE United States Government Savings Bonds which have a current

Ex AA

redemption value in excess of double the amount of the deficiency as found by this Court. United States Government Savings Bonds may not be pledged or used as security for the performance of an obligation. See Treasury Regulation concerning U. S. Savings Bonds at 31 C.F.R., 315.16 (1980). The above-referred regulation provides an exception where the Secretary of the Treasury is the bond approving officer. Pursuant to Section 7485 of the Internal Revenue Code of 1954, as amended, the bond approving authority with respect to bonds to stay assessment or collection of a deficiency found by this Court is the Court itself. The above-referred exception would not be applicable to the instant situation as the Secretary of the Treasury is not the bond

approving officer. This regulation would operate to prevent the Clerk of this Court, if the Court accepted the bonds, from exercising the power of attorney to sell the bonds and to apply the proceeds of the sale to the deficiency due if this Court's opinion is affirmed by the court of appeals and the petitioner fails to pay the deficiency as determined. Accordingly, it is ORDERED that the Clerk of the Court is directed to return to petitioner by registered mail the Bond and Power of Attorney and Agreement by Individual along with the Series EE Bonds which were hand delivered to the Court by petitioner on June 22, 1983.

(Signed) Arthur L. Nims, III

Judge

Dated: Washington, D. C.

July 7, 1983

Rules of Practice & Procedure

United States Tax Court

May 1, 1979, Printing

FORM 10

APPEAL BOND, APPROVED COLLATERAL

(See Rule 191)

A satisfactory form of bond for use in case an appellant desires to furnish approved collateral (Treasury Department Circular No. 154 Revised), instead of furnishing a corporate surety bond, and also forms of powers of attorney covering the pledged

EXHIBIT A

BEST AVAILABLE COPY

collateral are shown below. The original and one copy are required in either case. There are no printed forms. Each petitioner must execute the bond, and the corporate seal or a designation of seal in the case of individuals must be affixed.

UNITED STATES TAX COURT

.....

Petitioner,

v. Docket No.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

BOND

KNOW ALL MEN BY THESE PRESENTS that ..... is held and firmly bound unto the above-named Commissioner of Internal Revenue and/or the United States of America in the sum of ..... ($.....) Dollars, to be paid to the said COMMISSIONER OF INTERNAL REVENUE, and/or the UNITED STATES OF AMERICA,

EXHIBIT A

for the payment of which, well and truly to be made, the .....binds itself and its successors, firmly by these presents.

Signed, sealed, and dated this .....day of .....19..

Whereas, the above named..... is filing or is about to file with the United States Tax Court, an appeal from the said Court's decision in respect of the tax liability of the above petitioner for the taxable year or years..... by the United States Court of Appeals for the ..... Circuit to reverse the decision rendered in the above-entitled cause.

Now, Therefore, the condition of this obligation is such that if the above-named ..... shall file its appeal and shall prosecute

EX. A

said appeal to effect and shall pay the deficiency as finally determined, together with any interest, additional amounts or additions to the tax provided for by law, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

The above-bounden obligor, in order the more fully to secure the Commissioner of Internal Revenue and/or the United States in the payment of the aforementioned sum, hereby pledges as security therefor bond/notes of the United States in a sum equal at their par value to the aforementioned sum, to wit:.....dollars ($.....). which said bonds/notes are numbered serially and are in the denominations and amounts, and are otherwise more particularly described as follows:

.....

.....

EX. A

which said bonds/notes have this day been deposited with the Clerk of the United States Tax Court and his receipt taken therefor.

Contemporaneously herewith the undersigned has also executed and delivered an irrevocable power of attorney and agreement in favor of the Clerk of the United States Tax Court, authorizing and empowering him, as such attorney to collect or sell or transfer

134

or assign the above described bonds/notes so deposited, or any part thereof, in case of any default in the performance of any of the above-named conditions or stipulations.

(SEAL)

.....
(for an individual petitioner)

.....
(for a corporate petitioner)

(Corporate Seal)

Attest:

.....By.....
Secretary Title

EX. A

FORM 12

POWER OF ATTORNEY AND AGREEMENT BY INDIVIDUALS (see Rule 191)

KNOW ALL MEN BY THESE PRESENTS:

That I (we).....do hereby constitute and appoint the Clerk of the United States Tax Court as attorney for me (us), and in my (our) name to collect or to sell, assign, and transfer certain United States Liberty bonds, or other bonds or notes of the United States, being my (our) property described as follows:

Title of bonds/notes	Total face amount	Denomination	Serial No.	Interest dates
.....	.....	.....	.....	.....

such bonds/notes having been deposited by me (us) pursuant to the Act of July 30, 1947, c. 390, 61 Stat. 646, as security for the faithful performance of any and all of the conditions or stipulations of a certain obligation entered into by me

EX. B

(us) with (here enter "the Commissioner of Internal Revenue and/or the United States") under date of ....., which is hereby made a part thereof, and I (we), agree that, in case of any default in the performance of any of the conditions and stipulations of such undertaking, my (our) said attorney shall have full power to collect said bonds/notes or any part thereof, or to sell, assign, and transfer said bonds/notes or any part thereof without notice, at public or private sale, or to transfer or assign to another for the purpose of effecting either public or private sale, free from any equity of redemption and without appraisement or valuation, notice and right to redeem being waived, and the proceeds of such sale or collection, in whole or in part to be applied to the satisfaction of any damages, demands,

EX. B

or deficiency arising by reason of such default, as may be deemed best, and I (we) further agree that the authority herein granted is irrevocable.

136

And for myself (ourselves), my (our several) administrators, executors, and assigns, I (we) hereby ratify and confirm whatever my (our) said attorney shall do by virtue of these presents.

In witness whereof, I (we) hereinabove named, have executed this instrument and affixed my (our) seal this.....day of.....,19...

.....(SEAL)

State of.....)
County of.....) SS:

Before me, the undersigned, a notary public within and for the said county and State personally appeared ..... (Name of obligor), and acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this .....day of.....19...

(Notarial seal)

.....
Notary Public

My commission expires.....

Ex. B

ACCEPTANCE OF BONDS, NOTES OR OTHER OBLIGATIONS ISSUED OR GUARANTEED BY THE UNITED STATES AS SECURITY IN LIEU OF SURETY OR SURETIES ON PENAL BONDS

(Title 31, Chapter II, Part 225 of the Code of Federal Regulations)

Department Circular No. 154

Revised July 1, 1978

Department of the Treasury
Washington, D. C.
July 1, 1978

Fiscal Service
Bureau of Government Financial Operations

To Bond-Approving Officers, Federal Reserve Banks and Others Concerned:

This revision supersedes Treasury Department Circular No. 154, Revised, October 31, 1969. Prescribed forms for use in connection with 31 CFR, Part 225, are attached.

The following rules and regulations are prescribed for carrying into effect 6 U.S.C. 15.

Sec. 225.1 Bond-approving officers: definition. The term "bond-approving

Ex C

officers" as used in this part means the head of an executive department or Government establishment or an officer designated either by law or regulation to approve "penal bonds." The Treasury of the United States assumes no responsibility or liability on account of the acts of bond-approving officers. The term "bond-approving officer" shall be deemed to include the officer's successors in office.

Sec. 225.2 Bonds or notes acceptable as security: power to sell. Any individual, partnership, or corporation required by the laws of the United States or regulations made pursuant thereto to furnish any recognizance, stipulation, bond, guaranty, or undertaking (hereinafter called penal bond), with surety or sureties, may, in lieu of such surety or sureties, deposit as security with the official having authority

EXC

to approve such penal bond (hereinafter called the bond-approving officer), United States bonds, Treasury notes, or other public debt obligations of the United States, or obligations which are unconditionally guaranteed as to both interest and principal by the United States (all of which classes of obligations are hereinafter called "bonds or notes"), in a sum equal at their par value to the amount of the penal bond required to be furnished, together with an irrevocable power of attorney and agreement in the form prescribed, authorizing the bond-approving officer to collect or sell, assign and transfer such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. The acceptance of such bonds or notes in lieu of

ExC

surety or sureties required by law shall have the same force and effect as individual or corporate sureties, or certified checks, bank drafts, post-office money orders, or cash, for the penalty or amount of such penal bond. The term "par value" as applied in this part to

Ex. C

(Petitioner's written in ink notations on Ex. C upon receiving only the first page from Department of the Treasury, Washington, D. C. on: Friday, June 24, 1983.

Upon phoning Federal Reserve Bank, talked to Bill Smith of Records & Forms, & Redemption. Quote Mr. Smith: Don't have #154; never heard of it; don't know what No. 154 is.

With Federal Reserve 34 minutes phone, given departments with telephone numbers of Federal Reserve, namely: 574-6000, 6189, 6177 and finally referred to 574-6176 with Mr. Bill Smith.

Petitioner's notation in ink on side: Not a Penal Bond, is it? That is what they call it. Petitioner's underlining & brackets in ink.)

FEDERAL REGISTER- Friday, September 26, 1980. Part V. Department of the Treasury, Fiscal Service. Regulations Governing U. S. Savings Bonds, Series A, B, C, D, E, F, G, H, J, and K, and U.S. Savings Notes.

64096 Federal Register/Vol. 45, No. 189. Rules and Regulations.

Subpart D-Limitations on Transfer or Pledge. Sec. 315.15 Transfer.

Savings bonds are not transferable and are payable only to the owners named on the bonds, except as specifically provided in these regulations and then only in the manner and to the extent so provided.

Sec. 315.16 Pledge. (a) General. A savings bond may not be hypothecated, pledged, or used as security for the performance of an obligation, except as provided in paragraph (b) of this section.

EX. D

(b) Pledge under Treasury Circular No. 154. A bond may be pledged by the registered owner in lieu of surety under the provisions of Department of the Treasury Circular No. 154, current revision (31 CFR, Part 225), if the bond approving officer is the Secretary of the Treasury. In this case, an irrevocable power of attorney shall be executed authorizing the Secretary of the Treasury to request payment.

Subpart E-Limitations on Judicial Proceedings-No Stoppage or Caveats Permitted.

315.20 General. The following general rules apply to the recognition of a judicial determination on adverse claims affecting savings bonds:

(a) The Department of the Treasury will not recognize a judicial determination that gives effect to an attempted voluntary transfer inter vivos of a bond, or a

Ex. 1

judicial determination that impairs the rights of survivorship conferred by these regulations upon a coowner or beneficiary. All provisions of this Subpart are subject to these restrictions.

(b) The Department of the Treasury will recognize a claim against an owner of a savings bond and conflicting claims of ownership of, or interest in, a bond between coowners or between the registered owner and the beneficiary, if established by valid, judicial proceedings, but only as specifically provided in this Subpart. Section 315.23 specifies the evidence required to establish the validity of the judicial proceedings.

(c) (Not copied.)

315.21 Payment to judgment creditors. (a) Purchaser or officer under levy. The Department of the Treasury will pay (but not reissue)

Ex. D

a savings bond to the purchaser at a sale under a levy or to the officer authorized under appropriate process to levy upon property of the registered owner or coowner to satisfy a money judgment. Payment will be made only to the extent necessary to satisfy the money judgment. The amount paid is limited to the redemption value 60 days after the termination of the judicial proceedings.

(Coownership not copied.)

(b) Trustee in bankruptcy, receiver, or similar court officer. The Department of the Treasury will pay, at current redemption value, a savings bond to a trustee in bankruptcy, a receiver of an insolvent's estate, a receiver in equity, or a similar court officer under the provisions of paragraph (a) of this section.

(Section 315.22 (a) Divorce. (b) Gift causa mortis and (c) Date for determining rights not copied.)

Ex. D

315.23 Evidence. (a) General. To establish the validity of judicial proceedings, certified copies of the final judgment, decree, or court order, and of any necessary supplementary proceedings, must be submitted. If the judgment, decree, or court order was rendered more than six months prior to the presentation of the bond, there must also be submitted a certificate from the clerk of the court, under court seal, dated within six months of the presentation of the bond, showing that the judgment, decree, or court order is in full force.

(b) & (c) not copied.)

Page 64099

315.40 Special provisions for payment. (a) Owner's signature not required. A bond may be paid by a paying agent or Federal Reserve Bank without the owner's signature to the

Ex. D

request for payment, if the bond bears the special endorsement of a financial institution specifically qualified to place such an endorsement on savings bonds under the provisions of Department of the Treasury Circular No. 888, current revision (31 CFR, Part 330).

((b) & (c) not copied.)

(d) Attorneys-in-fact. A request for payment signed by an attorney-in-fact will be recognized if it is accompanied by a copy of a power of attorney, executed before a certifying officer, that authorizes the attorney-in-fact to sell or cash the grantor's Treasury securities. See Sec. 315.65 for separate rules relating to the use of powers of attorney for incompetent or physically disabled individuals. Ex. D

(Sections 315.41, 315.42, 315.43 315.44 315.45, 315.46 and 315.47 on Page 64099 not copied.) (Underlining and brackets on Exhibits prior to being Exhibits.)

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

ELIZABETH M. BRADY No. 83-3314

VS. T. C. No. 4465-78)

COMMISSIONER OF INTERNAL REVENUE

MOTION FOR RECISSION & STAY OF TAX ASSESSMENT

1. United States Tax Court on March 25, 1983 entered a decision that "There is a deficiency in petitioner's income tax in the amount of $2304. for the taxable year 1974.

2. Appellant filed an appeal Bond and Power of Attorney and EE Bonds in the amount of $4608. specifically for the appeal of the Tax Court decision.

3. Twice the Tax Court rejected the EE Bonds as appeal collateral. These two rejections of the EE Bonds as appeal collateral by the Tax Court were also appealed, and acceptance of the EE Bonds as collateral on appeal, prayed to the United States Court of Appeals for the Third Circuit.

4. The appeal Bond and Power of Attorney and Government EE Bonds would stay the assessment and collection procedures before final adjudication.

-1- (End of Page.)

5. The Motion of appellant of July 24, 1983 to the Court of Appeals of the Third Circuit on acceptance of the EE Bonds as appeal collateral, ought to have stayed the assessment and collection procedures until the motion is finally decided.

6. The Internal Revenue Service has issued an Assessment and Interest Bill as of August 15, 1983, received August 18, 1983 by mail, payable in ten days from date of bill. And whether it is owed or not, if the amount of the bill is not forthcoming to Internal Revenue Service, seizures follow, in short order.

7. Appellant specifically purchased the EE Bonds to obviate assessment and collection and seizure procedures of Internal Revenue Service until final decision.

8. There is no deficiency of money. See Form 1040, Page 1, Exhibit with Stipulation in Tax Court. There is an overage, away over the amount of the Tax Court's Order. And the money is still with the Treasury. Internal Revenue Service has been informed on Tax Forms. Form 1040 Page 1 Attached.

9. Certificate of Service on Internal Revenue District Counsel of Motion on EE Bonds dated July 25, 1983 is attached.

-2- (End of Page.)

10. The Court is respectfully prayed to order the District Director of Internal Revenue Service, 600 Arch Street, Philadelphia, Pennsylvania, 19106, to rescind the Assessment and Interest Tax Bill of August 15, 1983 and to stay the same. Exhibit of Tax Bill is attached.

Signed: ELIZABETH M. BRADY.
Pro Se
219 PRICE AVENUE
NARBERTH, PA. 19072

DATE: Aug. 21, 1983

ORDER PRAYED FOR ATTACHED.

Form 1040 U.S. 1974

Department of the Treasury-Internal Revenue Service

Individual Income Tax Return

For the year January 1-December 31, 1974.

Name (if joint return, two first names and initials of both) Last name

ELIZABETH M. BRADY

Present home address (number and street, including apartment number or rural route)

219 PRICE AVE.

City, town or post office, State and ZIP CODE

NARBERTH, PENNA. 19072

County of Residence

Your Social Security Number

169-20-1631

Spouse's Social Security No.

Occupation Yours-SHORTHAND REPORTER

Spouse's

Filing Status (check only one)

1 [X] Single

2 [ ] Married filing joint return (even if only one had income)

3 [ ] Married filing separately. If spouse is also filing give spouse's social

(Form 1040 - Continued - Page 1)

security number in designated space above and enter full

name here_____

4 ☐ Unmarried Head of Household (See instructions on page 5)

5 ☐ Widow (er) with dependent child (Year spouse died - 19)

Exemptions		Regular	65 or over	Blind	
6a	Yourself	☒ 1	☐	☐	Enter No.of
b	Spouse	☐	☐	☐	checks 1

c First names of your dependent children who lived with you_____Enter number ___

d Number of other dependents (from line 27)___

7 Total exemptions claimed 1

8 Presidential Election Campaign Fund

(Note: If you check the "Yes" box(es) it will not increase your tax or reduce your refund.

Do you wish to designate $1. of your taxes for this fund? ☐ Yes ☐ No

If joint return, does your spouse wish to designate $1? ☐ Yes ☐ No

(Form 1040-Page 1-Continued.)

INCOME

9	Wages, salaries, tips, (Attach Forms W-2. If unavailable, see Instructions on page 3.) and other employee compensation	9	$20,976.69
10a	Dividends (See Instructions on page 6 and 13)$		
10b	Less exclusion $___ Balance - (If gross dividends and other distributions are over $400. list in Part 1 of Schedule B.)	10c	
11	Interest Income. (If $400. or less, enter total without listing in Schedule B. If over $400. enter total and list in Part II of Schedule B.)	11	582.34
12	Income other than wages, dividends, and interest (from line 38)	12	
13	Total (add lines 9, 10c, 11 and 12)	13	21,559.03

(Form 1040-Page 1 Continued.)

14 Adjustments to income (such as "sick pay", moving expenses, etc. from line 43)

14

15 Subtract line 14 from line 13 (adjusted gross income)

15 $21,559.03

If you do not itemize deductions and line 15 is under $10,000. find tax in Tables and enter on line 16.

If you itemize deductions or line 15 is $10,000. or more, go to line 44 to figure tax.

CAUTION. If you have unearned income and can be claimed as a dependent on your parent's return, check here ☐ and see instructions on page 7. Tax, Payments and Credits

16. Tax, check if from ☐ Tax Tables 1-12

☐ Schedule D

☒ Tax Rate Schedule X, Y, or Z

☐ Schedule G OR ☐ Form 4726

16 2,863.18

17 Total credits (from line 54) 17

18 Income Tax (subtract line 17 from line 16) 18 2,863.18

rm 1040-Page 1 Continued.)

Other taxes (from line 61) 19

Total (add lines 18 and 19) 20 2,863.18

Total Federal income tax withheld (attach Forms W-2 or W-2P to front 21a 4,875.98

1974 estimated tax payments (include amount allowed as credit from 1973 return) b 5,381.28

Amount paid with Form 4868, Application for Automatic Extension of Time to file U.S. Individual Income Tax Return c

Other payments (from line 65) d

Total (add lines 21a, b, c, & d 22 $10,257.26

If line 20 is larger than 22, enter BALANCE DUE IRS 23

Pay amount on line 23 in full with this return. Write social security number on check or money order and make payable to Internal Revenue Service.

heck here ☐ if Form 2210, Form 2210F, or atement is attached. See instructions on page 7.

(Form 1040-Page 1 Continued)

24 If line 22 is larger than line 20, enter amount OVERPAID 24 7,394.08

25 Amount of line 24 to be REFUNDED TO YOU 25

26 Amount of line 24 to be credited on 1975 estimated tax. 26 7,394.08

If all of overpayment (line 24) is to be refunded (line 25), make no entry on line 26.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which he has any knowledge.

Sign here: (Signed) Elizabeth M. Brady, March 5, 1975. H O L D A N Y O V E R P A Y M E N T U N T I L C O U R T C A S E I S F I N A L L Y D E C I D E D.

Hand-written & Signed: E.M.B.

EXHIBIT - 1 A

"Internal Revenue Service, Philadelphia, PA 19255"

Received Aug. 18-83-Thurs. (Taxpayer's Note.)

Department of Treasury, Internal Revenue Service

11601 Roosevelt Blvd. Philadelphia, PA. 19155

"1DRS:: : 23010000 Date of this Notice:23C 8-15-83

SRG: 000 DLN-For IRS use only: 23251-222-12101

30 74 12 (670 570) If you find it necessary to inquire about your account, please refer to this number: 169-20-1631. ELIZABETH M. BRADY 219 PRINCE AVE.-(handwritten by taxpayer -- 219 PRICE AVE.) NARBERTH, PA 19072 FORM # 1040 TAX PERIOD ENDED 12-31-74 ASSESSMENT DATE: 8-15-83 STATEMENT OF TAX DUE ON FEDERAL TAX RETURN. This is a notice of tax due on your return identified above. The amount shown as Balance Due should be paid within 10 days from the date of this notice. Please make your check or money order payable to Internal Revenue Service and send it with this notice to the address shown above.

Reference	Assessment	Credit	Balance Due
8-15-83 TAX	2,304.00		
8-15-83 INT	2,118.13		
Penalty-Failure to Pay	.00		$4,422.13

Please return this copy with your payment to the address shown above. FORM 3552 (Part 3)(Rev. 3-81)

EE APPENDIX F App. 27

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

ELIZABETH M. BRADY No. 83-3314

VS. (T.C. No. 4465-78)

COMMISSIONER OF INTERNAL REVENUE

O R D E R

IT IS HEREBY ORDERED THAT THE DISTRICT DIRECTOR OF INTERNAL REVENUE SERVICE, 600 ARCH STREET, PHILADELPHIA, PENNSYLVANIA 19106 RESCIND THE ASSESSMENT AND INTEREST BILL OF AUGUST 15, 1983 OF THE ABOVE TAXPAYER, AND STAY ASSESSMENT UNTIL THE FINAL DECISION IN THIS CASE.

J.

DATE: _____

TAX BILL ATTACHED.

23251-222-12101 30 74 12

219 PRICE AVENUE

NARBERTH, PA. 19072

"Internal Revenue Service, Philadelphia, PA 19255"
Received Aug. 18-83-Thurs. (Taxpayer's Note.)
Department of Treasury, Internal Revenue Service
11601 Roosevelt Blvd. Philadelphia, PA. 19155
"1DRS:: : 23010000 Date of this Notice:23C 8-15-83
SRG: 000 DLN-For IRS use only: 23251-222-12101
30 74 12 (670 570) If you find it necessary to inquire about your account, please refer to this number: 169-20-1631. ELIZABETH M. BRADY
219 PRINCE AVE.-(handwritten by taxpayer -- 219 PRICE AVE.) NARBERTH, PA 19072 FORM # 1040
TAX PERIOD ENDED 12-31-74 ASSESSMENT DATE: 8-15-83
STATEMENT OF TAX DUE ON FEDERAL TAX RETURN. This is a notice of tax due on your return identified above. The amount shown as Balance Due should be paid within 10 days from the date of this notice. Please make your check or money order payable to Internal Revenue Service and send it with this notice to the address shown above.

Reference	Assessment	Credit	Balance Due
8-15-83 TAX	2,304.00		
8-15-83 INT	2,118.13		
Penalty-Failure to Pay	.00		$4,422.13

Please return this copy with your payment to the address shown above. FORM 3552 (Part 3)(Rev. 3-81)

(TREASURY DEPARTMENT CIRCULAR NO. 154.)

"ACCEPTANCE OF BONDS, NOTES OR OTHER OBLIGATIONS ISSUED OR GUARANTEED BY THE UNITED STATES AS SECURITY IN LIEU OF SURETY OR SURETIES ON PENAL BONDS

(Title 31, Chapter II, Part 225 of the Code of Federal Regulations)

Department Circular No. 154
Revised July 1, 1978

DEPARTMENT OF THE TREASURY
Washington, D. C.
July 1, 1978

Fiscal Service
Bureau of Government Financial Operations
To Bond-Approving Officers, Federal Reserve Banks and Others Concerned:

This revision supersedes Treasury Department Circular No. 154 Revised, October 31, 1969. Prescribed forms for use in connection with 31 CFR, Part 225, are attached.

The following rules and regulations are prescribed for carrying into effect 6 U.S.C. 15.

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

Sec. 225.1 Bond-approving officers; definition. The term "bond-approving officers" as used in this part means the head of an executive department or Government establishment or an officer designated either by law or regulation to approve "penal bonds." The Treasury of the United States assumes no responsibility or liability on account of the acts of bond-approving officers. The term "bond-approving officer" shall be deemed to include the officer's successors in office.

Sec. 225.2 Bonds or notes acceptable as security; power to sell. Any individual, partnership, or corporation required by the laws of the United States or regulations made pursuant thereto to furnish any recognizance, stipulation, bond, guaranty, or undertaking (hereinafter called penal bond), with surety or sureties, may, in lieu of such surety or sureties, deposit as security with the official having authority to approve such penal bond (hereinafter called the bond-approving officer), United States bonds,

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

Treasury notes, or other public debt obligations of the United States, or obligations which are unconditionally guaranteed as to both interest and principal by the United States (all of which classes of obligations are hereinafter called "bonds or notes"), in a sum equal at their par value to the amount of the penal bond required to be furnished, together with an irrevocable power of attorney and agreement in the form prescribed, authorizing the bond-approving officer to collect or sell, assign and transfer such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. The acceptance of such bonds or notes in lieu of surety or sureties required by law shall have the same force and effect as individual or corporate sureties, or certified checks, bank drafts, post-office money orders, or cash, for the penalty or amount of such penal bond. The term "par value" as applied in this part to

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

bonds or notes not issued on a discount basis means the stated dollar amount thereof; i.e., the denominational amount, such as $100, $500, and $1,000; and as applied to bonds or notes issued on a discount basis means the dollar amount which the holder is entitled to receive at maturity or the next following date of redemption at the option of the holder, whichever amount is less. In order to avoid the frequent substitution of bonds or notes, bond-approving officers will not receive a bond or note which matures or, at the option of the holder, may be redeemed within 30 days of the date of deposit; and any bond-approving officer may refuse to receive bonds or notes which mature or, at the option of the holder, may be redeemed within a year of the date of deposit, in cases where he rules that deposit of such bonds or notes might lead to frequent substitutions.

Sec. 225.3 Obligor must be owner; registration. The individual, partnership,

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

or corporation required to furnish any penal bond, who deposits bonds or notes as security in lieu of surety or sureties in accordance with the provisions of this part, must be the owner of the bonds or notes deposited, and is hereinafter called the obligor. Bonds or notes may be deposited with bond-approving officers pursuant to the provisions of this part in either coupon or registered form. Coupon bonds or notes shall have attached thereto all coupons unmatured at the date of such deposit, and all matured coupons should be detached. Registered bonds or notes must be registered in the name of the obligor. They need not be assigned, and must not be assigned to the bond-approving officer. Bonds registered in the name of the obligor may, however, bear assignment in blank or to the Secretary of the Treasury for exchange for coupon bonds.

Sec. 225.4 Risk of loss; receipt. The bonds or notes to be deposited must in

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

every case be delivered to the bond-approving officer at the obligor's risk and expense. Coupon bonds or notes and registered bonds or notes assigned in blank or for exchange for coupon bonds or notes cannot safely be forwarded by registered mail unless insured by the obligor against risk of loss in transit. Registered bonds or notes, unless assigned in blank or for exchange for coupon bonds or notes, need not be so insured when forwarded by registered mail, unless the obligor so elects. The bond-approving officer shall issue a receipt in duplicate, substantially in Form A, for the bonds or notes so deposited, the original of the receipt to be given to the obligor and the duplicate to be retained by the bond-approving officer for his files.

Sec. 225.5 Application of proceeds in case of default; forms. At the time of the deposit of any bonds or notes with a bond-approving officer in accordance with the

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

provisions of this part, the obligor shall deliver to the bond-approving officer a duly executed power of attorney and agreement, in favor of the bond-approving officer, authorizing such officer to collect or sell, assign, and transfer, such bonds or notes so deposited in case of any default in the performance of any

(End of page.)

-3-

of the conditions or stipulations of the penal bond, and to apply the proceeds of such sale or collection, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of such default. The power of attorney and agreement shall not be revocable by the obligor; and, in case of an individual, shall be substantially in Form C, in the case of a partnership, substantially in Form D, and in the case of a corporation, substantially in Form E.

Sec. 225.6 Facts to be determined by bond-approving officers.

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

In connection with the acceptance of bonds or notes hereunder as security in lieu of surety or sureties, bond-approving officers must satisfy themselves as to the ownership of the bonds or notes deposited and the sufficiency of the power of attorney and agreement, and in the case of registered bonds or notes, as to the regularity of the assignments as well, and, in general, that the deposit is made in conformity with the provisions of this part.

Sec. 225.7 Substitutions. Any obligor who deposits bonds or notes in accordance with the provisions of this part may, upon written application to and with the approval of the bond-approving officer, substitute for the bonds or notes so deposited (a) other bonds or notes in a sum equal at their par value to not less than the par amount of the bonds or notes to be withdrawn, upon compliance with all the provisions of this part applicable to an original deposit of bonds or notes

(TREASURY DEPARTMENT CIRCULAR NO. 154 (Continued.)

in lieu of surety or sureties, or (b) a penal bond with surety or sureties or such other security as may be allowed by law. The bonds or notes withdrawn shall be returned in the manner hereinafter provided for the return of bonds and notes deposited.

Sec. 225.8 Authorized depositaries; withdrawal. Bonds or notes deposited with bond-approving officers as security in accordance with the provisions of this part, and such other bonds or notes as may be substituted therefor from time to time as such security, may be deposited by bond-approving officers with a Federal Reserve Bank or Branch having the requisite facilities, or other depositary duly designated for that purpose by the Secretary of the Treasury. Provided, however, that bond-approving officers shall deposit with the United States Treasury all bonds or notes received by them in the District of Columbia pursuant to the provisions of this part. Depositaries of public moneys are not

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

authorized to act as depositaries for bonds or notes accepted under this part, unless specifically designated for that purpose by the Secretary of the Treasury. Any authorized depositary receiving deposits of bonds or notes from bond-approving officers in accordance with this part shall give receipt therefor in duplicate, describing the bonds or notes so deposited, substantially in Form B, the original to be delivered to the bond-approving officer and the duplicate to be retained by the depositary for its own files. The bond-approving officer will hold the original receipt subject (End of Page.)

to the instructions of his administrative superior. Bonds or notes so deposited with an authorized depositary may be withdrawn only by or on the written order of the bond-approving officer. Bonds or notes accepted by or on behalf of any United States court, under this part, may also be deposited as

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

aforesaid under a duly authenticated order of the court, and bonds or notes so deposited may be withdrawn only by or on the duly authenticated order of such court.

Sec. 225.9 Risk of loss or destruction. Bonds or notes accepted by bond-approving officers from obligors under this part, and not deposited by them with authorized depositaries, will be held at the risk of the respective bond-approving officers, officers, subject to such regulations and instructions as may be prescribed for their guidance by their respective administrative superiors. Coupon bonds or notes and registered bonds or notes assigned in blank or for exchange for coupon bonds or notes are in effect bearer obligations and must be kept in safe custody; registered bonds or notes not assigned in blank or for exchange for coupon bonds or notes must also be kept in safe custody, but in the event of loss or destruction may be replaced upon compliance with the provisions of law and the regulations of the Treasury Department applicable thereto.

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

Sec. 225.10 Delivery to the depositary. Bond-approving officers desiring to deposit bonds or notes received by them with authorized depositaries must deliver such bonds or notes to the depositary, without risk or expense to the depositary. Coupon bonds or notes and registered bonds or notes assigned in blank or for exchange for coupon bonds or notes cannot safely be shipped by registered mail unless covered by insurance. Registered bonds or notes not assigned in blank or for exchange for coupon bonds or notes may be forwarded by registered mail uninsured.

Sec. 225.11 Payment of interest to obligor; coupons. The obligor shall be entitled to receive the interest accuring upon bonds or notes deposited in accordance with this part, in the absence of any default in the performance of any of the conditions or stipulations of the penal bond. The interest on any registered bonds or notes

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

which the obligor is entitled to receive hereunder will be paid by check in regular course to the registered holder. The coupons for any interest on coupon bonds or notes which the obligor is entitled to receive hereunder will, upon written application from the obligor to the bond-approving officer, be detached, as they mature, from the bonds or notes deposited and forwarded to the obligor at the obligor's risk and expense, either by the bond-approving officer or upon his written order by the depositary with which the bonds or notes may be deposited, or, at the direction of the bond-approving officer, collected by the depositary and check therefor forwarded to the obligor. In the absence of written application therefor by the obligor, coupons for interest on coupon bonds or notes to which the obligor may be entitled under this part shall remain attached to the bonds or notes deposited, subject to the provisions of this part.

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

Sec. 225.12 Return to obligor of security.

(a) Generally. As soon as security for the performance of the penal bond is no longer necessary, the bonds or notes deposited in lieu of surety or sureties on such penal bond, together with the power of attorney and agreement accompanying such bonds or notes, shall be returned to the obligor by the bond-approving officer, without application therefor from the obligor. The determination of the question whether security is any longer necessary for the performance of the penal bond shall rest with the bond-approving officer.

(b) Miller Act payment bonds. If a person who supplied labor or material to a contractor, required by the Miller Act, as amended (40 U.S.C. 270a-d), to give a payment bond to the United States, files with the Comptroller General the application

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

and affidavit provided for in that Act after a default in the performance of a contract covered by that Act, the bond-approving officer shall not return to the contractor-obligor the deposited bonds, notes or any surplus proceeds thereof until the expiration of the time within which such a person may commence suit on the payment bond as provided in the Act, i.e., one year after the day on which the last of the labor was performed or material supplied by that person. If suit is instituted within that time, the bond-approving officer shall hold such bonds, notes or proceeds subject to the order of the court having jurisdiction of the suit. If suit is not instituted within that time but the bond-approving officer is on notice of a claim against the contractor-obligor on the basis of his payment bond, the bond-approving officer shall determine the time at which, and the evidence of settlement of the claim upon which, he will release the bonds, notes or proceeds.

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

(c) Claim of United States unaffected. Nothing in this section shall affect or impair the priority of any claim of the United States against bonds or notes deposited, or any right or remedy granted by the Miller Act or by this part to the United States for default upon any obligation of a penal bond.

Sec. 225.13 Return to obligor; risk of loss. Bonds or notes to be returned to the obligor will be forwarded at the obligor's risk and expense, either by the bond-approving officer, or upon his written order by the depositary with which the bonds or notes may be deposited, and unless delivered direct to the obligor, will be forwarded, in the absence of other written instructions and remittance to cover expenses, by express, collect, except that registered bonds or notes not assigned in blank or for exchange for coupon bonds or notes may be forwarded by registered mail, uninsured.

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

Sec. 225.14 Withdrawal. Any obligor who desires to withdraw a portion only of the bonds or notes deposited, by reason of reduction in liability under the penal bond, shall make written application for such withdrawal to the bond-approving officer, who shall, if he approves such application, return such portion of the bonds or notes to the obligor.

(End of Page.)

-6-

Sec. 225.15 Receipt for return. Upon the complete or partial return to the obligor of bonds or notes deposited as security under the provisions of this part the bond-approving officer shall require from the obligor a receipt in duplicate, substantially in Form G, and shall further require the obligor, in case of complete return, to surrender the original receipt on Form A.

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

Sec. 225.16 Penal bonds; form to be used with bonds or notes as security. Penal bonds on which bonds or notes are accepted as security in lieu of surety or sureties may be substantially in Form F. Administrative officers of the Government may, however, use other forms of penal bonds appropriate to the work of their respective offices: Provided, that upon the execution of the penal bond the principal shall indorse on the face thereof and sign the following statement:

The securities described in the annexed schedule are hereby pledged as security for the performance and fulfillment of the foregoing undertaking in accordance with 6 U.S.C. 15, and 31 CFR Part 225.

_____

Principal on the above bond.

Sec. 225.17 Penal bonds; existing practice or duties of administrative offices in handling not modified.

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

Nothing contained in this part shall be construed as modifying the existing practice or duties of administrative offices in handling penal bonds, except to the extent made necessary under the terms of this part, by reason of the acceptance of bonds or notes as security in lieu of surety or sureties thereon.

Sec. 225.18 Acceptance by collectors of customs. 1/

Sec. 225.19 Special instructions for acceptance by collectors of internal revenue.2/

1/ This section has been revoked since its subject matter is now covered by Sec. 25.14, Chapter I, Title 19 of the Code of Federal Regulations.

2// This section has been revoked since its subject matter is now covered in Subchapter E and Sec. 301.7101, Chapter I, Title 26 of the Code of Federal Regulations. (End of Page.)

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

Sec. 225.20 All Government bond-approving officers governed by the provisions of this part. Bond-approving officers of other departments and establishments of the Government accepting bonds or notes in lieu of surety or sureties under the provisions of 6 U.S.C. 15, shall be governed by the provisions of this part. This part may be modified or amended only upon the approval of the Secretary of the Treasury.

Sec. 225.21 Other authority to take bonds and notes not affected by this part. Nothing contained in this part shall affect the authority of courts over the security when bonds or notes are taken as security in judicial proceedings, or the authority of any administrative officer of the United States to receive United States bonds or notes for security in cases authorized by provisions of law other than 6 U.S.C. 15.

(TREASURY DEPARTMENT CIRCULAR NO. 154 Continued.)

Sec. 225.22 Conversion to book-entry Treasury securities. Treasury bonds, notes, certificates of indebtedness, or bills deposited with a Federal Reserve bank or branch bank under this part may be converted into book-entry Treasury securities in accordance with Subpart O of Part 306 of this chapter, and the pertinent provisions of that subpart shall apply to such Treasury securities.

Signed: Paul H. Taylor

Fiscal Assistant Secretary

August 23, 1983 BPS-40

UNITED STATES COURT OF APPEALS FOR

THE THIRD CIRCUIT

ELIZABETH M. BRADY. 219 Price Ave.

Narberth, PA. 19072

vs. C.A. No. 83-3314

COMMISSIONER OF INTERNAL REVENUE

Elizabeth M. Brady, Appellant

(Tax Court No. 4465-78)

Present: ADAMS, HIGGINBOTHAM and

SLOVITER, CIRCUIT JUDGES

Submitted is appellant's motion for stay pursuant to Rule 8(a), Federal Rules of Appellate Procedure in the above-captioned case.

Respectfully, Signed: Sally Mrvos C.W.

SM/CW/sb enc. Clerk

The foregoing Motion is/are

Motion for stay is hereby denied.

By the Court, Signed: Arlin M. Adams,

Judge

Dated September 7, 1983 V.D.Y./cc:

Elizabeth M. Brady, Glenn L. Archer Jr. Esq.

Charles S. Casazza

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

ELIZABETH M. BRADY DOCKET NO. 83-3314

VS. (T.C. No. 4465-78)

COMMISSIONER OF INTERNAL REVENUE

MOTION FOR RECONSIDERATION OF MOTION FOR RECISSION & STAY OF TAX ASSESSMENT

C O N T E N T S PAGE

Motion to Reconsider 1

Decision of Court of Appeals-

September 7, 1983 4

Copy of Notice 54 Internal Revenue 5

Date of Tax Court Service on

Internal Revenue 6

Certificate of Service of

Motion to Reconsider 7

Attached - Personal Explanation 8

ELIZABETH M. BRADY

219 PRICE AVENUE

NARBERTH, PA. 19072

PRO SE

(COURT STAMP:

RECEIVED SEP 13 1983

U.S.C.A. 3RD. CIR.)

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

ELIZABETH M. BRADY No. 83-3314

VS. (T. C. No. 4465-78)

COMMISSIONER OF INTERNAL REVENUE

MOTION FOR RECONSIDERATION OF

MOTION FOR RECISSION & STAY OF TAX ASSESSMENT

1. Appellant has received Decision of the United States Court of Appeals for the Third Circuit dated September 7, 1983 which states: Motion for Stay is hereby denied, which refers to Motion of August 21, 1983 to stay Tax and Interest Bill dated August 15, 1983 of Internal Revenue Service.

2. Paragraphs 1 through 10 of Motion of August 21, 1983 are respectfully resubmitted together with attachments, by reference.

3. Particular attention is drawn to Paragraph 8 of the Motion of August 21, 1983, which states:

"There is no deficiency of money. See Form 1040, Page 1, Exhibit with Stipulation In Tax Court. There is an overage, away over the amount of the Tax Court's Order."

-1- (End of Page.)

Very particular attention is drawn to:

"And the money is still with the Treasury. Internal Revenue Service has been informed on Tax Forms. Form 1040 Page 1 attached."

In further explanation of the above statement, copy of Notice 54 "Enclosed is Your Refund" with my notations on it, which was enclosed with Tax Return filed April 13, 1979, is attached as further Exhibit. Appellant has not cashed this check.

Therefore, the money is still in the United States Treasury.

It is believed Internal Revenue Service does not keep with Taxpayer's

account a listing of uncashed refund checks. There are others. And at this date cashing is most probably past.

This check was received May 27, 1978 after appellant filed appeal on this case to Tax Court on April 27, 1978 and Internal Revenue Service was served May 1, 1978 by the Tax Court. Appellant on every Tax Return has requested a "hold" on overages of that time.

-2- (End of Page.)

4. There was no Notice received that the Tax Division of the United States Justice Department opposed the Motion of August 21, 1983, so it is presumed it was not opposed.

5. Inasmuch as Internal Revenue Service assesses and collects for the United States Treasury, and inasmuch as there is an overage in the United States Treasury of this Taxpayer, the interest on the Tax Bill of August 15, 1983 would not apply and would be an incorrect assessment, it is submitted.

6. The Court is also respectfully prayed to consider the Motion of July 24, 1983 on the EE Bonds purchased by appellant solely as collateral on the appeal of this case, which if the Motion of July 24, 1983 is granted, should "hold" the assessment and seizure procedures of Internal Revenue Service, until final adjudication, by which EE Bonds, the United States Treasury is, in addition, in possession of double the amount of money of the Tax Court's Order.

7. The Court is respectfully prayed to grant the Motion of August 21, 1983.

Signed: ELIZABETH M. BRADY
Pro Se
219 PRICE AVENUE
NARBERTH, PA. 19072

DATE: SEPTEMBER 11, 1983.

-3- (End of Page.)

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

ELIZABETH M. BRADY DOCKET NO. 83-3314

VS. (T.C. NO. 4465-78)

COMMISSIONER OF INTERNAL REVENUE

MOTION FOR CLARIFICATION

(Court Stamp: RECEIVED OCT 4, 1983 U.S.C.A. 3RD CIR.)

C O N T E N T S

Motion for Clarification Pages 1 thru 3

Copy of Court of Appeals Order of September 26, 1983 Page 4

Certificate of Service of Motion for Clarification Page 5

ELIZABETH M. BRADY

219 Price Avenue

Narberth, PA. 19072

Pro Se

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

ELIZABETH M. BRADY DOCKET NO. 83-3314

VS. (T.C. NO. 4465-78)

COMMISSIONER OF INTERNAL REVENUE

MOTION FOR CLARIFICATION

1. Motion for Clarification of This Court's Decision of September 26, 1983 and-or Decision of

> "Motion Appeal in this Court of Orders of July 7, 1983 and July 13, 1983 of the United States Tax Court denying acceptance of United States Savings EE Bonds, as collateral on the appeal of this case" signed July 24, 1983 and filed July 25, 1983.

2. Inasmuch as the effect of this Court's Decisions of September 7 & 26, 1983 do three things on appellant of requiring appellant to pay to the Internal Revenue Service their Tax Bill of August 15, 1983

(as a result of the Tax Court decision in this case) three different times and ways, appellant will be appealing.

1st TIME. a. Overage in Tax Payments since 1974 and before (Page 4 Motion for Recission and Stay).

b. Still NON-CASHED Refund Check #96,616,193 dated 5/26/78 (Page 5 Motion for Reconsideration of Motion for Recission & Stay)

-1- (End of Page.)

received May 27, 1978 after appellant filed appeal on this case to Tax Court on April 27, 1978 and served by Tax Court May 1, 1978. (Appellant's explanation Page 8, Motion For Reconsideration of Motion for Recission & Stay.)

2nd TIME: Proffer of EE Bonds as appeal collateral on two occasions to Tax Court, in accordance with

Tax Court Book of Rules.

3rd TIME: Internal Revenue Tax Bill of August 15, 1983 (as a result of Tax Court's decision and which money-judgment the Internal Revenue Attorney did not request at hearing) with interest which it is submitted, could not be due inasmuch as the United States Treasury still has the overage of money of the original tax 1040 Form of 1974.

It is submitted the Internal Revenue Service receives and collects taxes for the United States Treasury.

3. It is submitted these United States of America EE Bonds, proferred twice to the Tax Court as appeal collateral on this case and rejected twice by the Tax Court, are collateral in accordance with the (End of Page.)

Tax Court Rule Book, and ought to be accepted by the Tax Court as appeal collateral.

4. In order that this Court's Order of Denial of September 26, 1983 (copy attached) may be appealed in accordance with the Rules of the Supreme Court, and clarification is required for such appeal, appellant respectfully requests clarification of said Order.

5. Or, in the alternative, a decision affirming or denying motion filed July 25, 1983 on the EE Bonds as collateral on this case.

Signed: ELIZABETH M. BRADY
Pro Se
219 Price Avenue
Narberth, PA. 19072

OCTOBER 3, 1983.

ELIZABETH M. BRADY, Appellant Docket No. 83-3314

This is to certify that three copies of the foregoing paper were served on GLENN L. ARCHER JR., ASSISTANT ATTORNEY GENERAL, TAX DIVISION, APPELLATE SECTION, MICHAEL L. PAUP, ESQ., UNITED STATES DEPARTMENT OF JUSTICE, TAX DIVISION, WASHINGTON, D. C. 20530 by mailing the same in a postage-paid wrapper addressed to him at the above address.

This is to certify that the original and three copies of the aforementioned paper were hand delivered or mailed to the Court on 4th day of OCTOBER 1983.

Signed: ELIZABETH M. BRADY
Pro Se
219 PRICE AVENUE
NARBERTH, PA. 19072

DATED: OCTOBER 4th 1983.

*See letter from Department of Justice August 23, 1983, The Commissioner no longer represented by Chief Counsel, Internal Revenue Service, but by Department of Justice.

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 83-3314 September 21, 1983

ELIZABETH M. BRADY v.

COMMISSIONER OF INTERNAL REVENUE

Elizabeth M. Brady, Appellant

Present: ADAMS, HIGGINBOTHAM, and

SLOVITER, Circuit Judges.

1. Appellant's pro-se motion for reconsideration of Motion for Recission, and Stay of Tax Assessment, with copy of this Court's Order, dated September 7, 1983, which order denied appellant's motion for stay, which the Court may wish to treat as motion for reconsideration of this Court's Order dated September 7, 1983, in the above entitled case.

Respectfully, Signed: Valerie Young

vy enc. Deputy Clerk 7-3080

The foregoing Motion is denied.

By the Court, Signed: Arlin M. Adams,

Judge.

Dated: September 26, 1983 V.D.Y./cc

Elizabetn M. Brady

Glenn L. Archer, Jr., Esq.

To The Honorable Court of Appeals

For the Third Circuit

Honorable Arlin M. Adams

Honorable A. Leon Higginbotham Jr.

Honorable Dolores K. Sloviter

Re: Elizabeth M. Brady v. Commissioner of Internal Revenue No. 83-3314

Your Honors:

The Decision of September 26, 1983 reads: The foregoing Motion is denied; singular. Does that mean that the previous Motion on the EE Bonds filed July 25, 1983, before the issuance of the Tax Bill, Stay now denied, has also been denied; or is that Motion for acceptance on the EE Bonds as appeal collateral on this case, still to be ruled upon.

Thank you for your consideration of these matters.

Respectfully yours, Signed: Elizabeth M. Brady,

219 Price Avenue, Narberth, PA. 19072

October 4, 1983 Pro Se.

Enc.: Extra Copy of Motion for Clarification.

cc: Glenn L. Archer Jr., Assistant Attorney General, U.S.Dept. of Justice, Attn: Michael L. Paup Esq., Appellate Section Chief, Tax Division. Washington, D. C. 20530.

UNITED STATES TAX COURT

(Tax Court Stamp: UNITED STATES TAX COURT FILED OCT 17, 1983.)

ELIZABETH M. BRADY, Docket No. 4465-78

Petitioner,

VS. C. A. 83-3314

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

MOTION NUNC PRO TUNC

Inasmuch as taxpayer-appellant, Elizabeth M. Brady, Pro Se, did timely submit as appeal collateral, Bonds of the United States, being EE Bonds, together with appellant's Bond and Power of Attorney therefor in double the amount of Decision of the Tax Court of the United States of March 25, 1983, with Notice of Appeal on June 22, 1983, in accord, in taxpayer's belief, with the words of the Tax Court Rules on Page 133, and now, at the d rection of the Court of Appeals of the Third Circuit, taxpayer-appellant moves the Honorable Tax Court to allow submission of

Bond or United States Treasury Note that the Tax Court will accept nunc pro tunc as collateral in this appeal.

Signed: Elizabeth M. Brady,
219 Price Avenue,
Narberth, PA. 19072

OCTOBER 14, 1983

(COURT STAMP: U.S.TAX COURT, DENIED, OCT 18, 1983, Signed: ARTHUR L. NIMS III, JUDGE.)

ELIZABETH M. BRADY, Appellant

Docket No. 83-3314

T. C. 4465-78

This is to certify that three copies of the foregoing paper were served on GLENN L. ARCHER JR., SECTION CHIEF, MICHAEL L. PAUP, ESQ., UNITED STATES DEPARTMENT OF JUSTICE, TAX DIVISION, WASHINGTON, D. C. 20530 by mailing the same in a postage-paid wrapper addressed to him at the above address.

This is to certify that the original and three copies of the aforementioned paper were hand delivered or mailed to the Court on 14 day of OCTOBER 1983.

Signed: ELIZABETH M. BRADY

Pro Se

219 PRICE AVENUE

DATED: MARBERTH, PA. 19072

OCTOBER 14, 1983

*See letter from Department of Justice August 23, 1983 The Commissioner no longer represented by Chief Counsel, Internal Revenue Service, but by Department of Justice only.

BEST AVAILABLE COPY

Honorable Howard A. Dawson, Jr.

Chief Judge

United States Tax Court

400 Second Street, N. W.

Washington, D. C. 20217

Re: Elizabeth M. Brady Vs. Commissioner of Internal Revenue 4465-78 C.A. 83-3314

Your Honor:

At the direction of the Court of Appeals For The Third Circuit, through Paul Douglas Sisk Esq., Senior Staff Attorney, Office of the Staff Attorneys, United States Court of Appeals For the Third Circuit, (215 - 597-2378), I have been directed to ask, and the enclosed Motion is respectfully submitted.

Having now inquired of the Federal Reserve Bank and other Banks, I have been informed that all United States Bonds or Notes are issued in registered form now and that takes sixty (60) days to receive.

There is an auction of $5000. notes (which is over the amount needed) coming up for which Federal Reserve Bank has to receive Application and Certified Check early in the week.

That is one possibility, if Copy of the Application and Receipt Therefor or Copy of Certified Check, is acceptable until registered Note of the United States is issued in sixty days. But I would have to know if this Motion is granted by Tuesday morning, October 18th 1983, if someone at the Tax Court would phone me collect 215 - 664-0857.

The other possibility is, at this time, I may be able to get regular surety, which will also take some days.

Respectfully submitted. Signed: Elizabeth M. Brady, Pro Se, 219 Price Avenue, Narberth, Pa. 19072.

October 14, 1983.

cc: Court of Appeals, Third Circuit.
Glenn Archer, Esq., Tax Div.,
U. S. Dept. of Justice.

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

ELIZABETH M. BRADY, Appellant

vs. No. 83-3314

COMMISSIONER OF INTERNAL REVENUE

(Tax Court D.C. No. 4465-78)

Present: ADAMS, HIGGINBOTHAM, and

SLOVITER, Circuit Judges.

1. Appellant's pro-se motion for Clarification of Motion for Reconsideration of motion for Recission, with copy of this Court's Order, dated September 26, 1983, or in alternative, a decision affirming or denying motion filed July 25, 1983, on the EE Bonds as collateral on this case, in the above entitled case.

Respectfully, Signed: Valerie Young

enc. vy Deputy Clerk 7-3080

The foregoing Motion is/are denied.

By the Court, Signed: Arlin M. Adams,

Judge

Dated: December 8, 1983

vy/cc E.M.B.

G.L.A., Jr.